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DEPARTMENT OF ENERGY

10 CFR Parts 430 and 431

[EERE–2019–BT–NOA–0011]

RIN 1904–AE24

Test Procedure Interim Waiver Process

AGENCY: Office of Energy Efficiency and Renewable Energy (EERE), U.S. Department of Energy.

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (''DOE'' or the ''Department'') is revising the Department's test procedure interim waiver process. The revisions address areas of the test procedure interim waiver process regulations that may result in alternate test procedures that are inconsistent with the purpose and requirements of the Energy Policy and Conservation Act, and that otherwise appear not to effectuate the statute properly.

DATES: This rule is effective February 14, 2022.

ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at: *www.regulations.gov/docket?D=EERE-2019-BT-NOA-0011.* The *www.regulations.gov* web page contains instructions on how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT:

Ms. Sarah Butler, U.S. Department of Energy, Office of General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: *Sarah.Butler@hq.doe.gov.*

Ms. Julia Hegarty, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

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I. Summary of Final Rule

On December 11, 2020, DOE published a final rule (''December 2020 Final Rule'') in the **Federal Register** that made significant revisions to its procedures for processing petitions for interim waivers from test procedures mandated pursuant to the Energy Policy and Conservation Act (''EPCA''), found in 10 CFR 430.27 and 10 CFR 431.401. 85 FR 79802.

Subsequently, on January 20, 2021, the White House issued Executive Order 13990, ''Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.'' 86 FR 7037 (Jan. 25, 2021). Section 1 of that Order listed several policies related to the protection of public health and the environment, including reducing greenhouse gas emissions and bolstering the Nation's resilience to climate change. *Id.* at 86 FR 7037, 7041. Section 2 of the Order instructs all agencies to review ''existing regulations, orders, guidance documents, policies, and any other similar agency actions (agency actions) promulgated, issued, or adopted between January 20, 2017, and January 20, 2021, that are or may be inconsistent with, or present obstacles to, [these policies].'' *Id.* Agencies are then directed, as appropriate and consistent with applicable law, to consider suspending, revising, or rescinding these agency actions and to immediately commence work to confront the climate crisis. *Id.* In addition, the White House explicitly enumerated certain agency actions, including the December 2020 Final Rule, as actions that would be reviewed to determine consistency with Section 1 of the Order.[1] Executive Order 13990, Fact Sheet.[2]

DOE proposed revisions to its procedures for processing petitions for interim waivers from test procedures mandated pursuant to EPCA in a notice of proposed rulemaking (''NOPR'') that was published on August 19, 2021 (''August 2021 NOPR''). 86 FR 46793.

While E.O. 13990 triggered the Department's re-evaluation, DOE is relying on the analysis presented below, based upon EPCA, to revise its prior rule. In conducting its review of the December 2020 Final Rule, DOE has identified areas that do not meet DOE's responsibilities under EPCA. The December 2020 Final Rule mandates a

[1] Fact Sheet: List of Agency Actions for Review (Jan. 20, 2021), *https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-list-of-agency-actions-for-review/.*

[2] The Joint Advocates, Sierra Club and Earthjustice, and DEEP (as identified in Table II.1 of this document) urged DOE to comply with the deadline for final action on this proposal contained in Executive Order 13990. (Joint Advocates, No. 65 at p. 2; Sierra Club and Earthjustice, No. 67 at p. 1; DEEP, No. 59 at p. 2)

process that may result in alternate test procedures that are inconsistent with EPCA's purpose and requirements. In addition, as discussed in greater detail in section III of this document, upon reconsideration, DOE believes provisions implemented by the December 2020 Final Rule could weaken energy conservation standards by allowing manufacturers to place noncompliant products in the market. In furtherance of its duties under EPCA and in accordance with Executive Order 13990, DOE is revising its procedures for processing interim waiver requests.

In this final rule, DOE amends 10 CFR 430.27 and 10 CFR 431.401 by: (1) Removing the provisions, adopted in the December 2020 Final Rule, that interim waivers will be automatically granted if DOE fails to notify the petitioner of the disposition of the petition within 45 business days of receipt of the petition, and instead specifying that DOE will make best efforts to process any interim waiver request within 90 days of receipt; (2) providing the requirements for a complete petition for interim waiver, and specifying that DOE would notify petitioners of incomplete petitions via email and that DOE will post a complete petition for interim waiver on its website within five business days of receipt of the complete petition; (3) stating the information that must be provided in a request to extend a waiver to additional basic models; (4) revising the compliance certification and representation requirements; (5) specifying that interim waivers will automatically terminate on the compliance date of a new or amended test procedure; (6) harmonizing the consumer product and commercial equipment waiver provisions with enforcement requirements; and (7) allowing DOE to rescind or modify a waiver for appropriate reasons.

II. Authority and Background

A. Authority

EPCA,[3] Public Law 94–163 (42 U.S.C. 6291–6317) authorizes DOE to regulate the energy efficiency of a number of consumer products and industrial equipment types. Title III, Part B [4] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. Title III, Part C [5] of EPCA established the Energy Conservation Program for Certain Industrial Equipment. The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures.

The Federal testing requirements consist of test procedures that manufacturers of covered products and equipment generally must use as the basis for: (1) Certifying to DOE that the product or equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s); 42 U.S.C. 6316(a)), and (2) making representations about the efficiency of the products or equipment (42 U.S.C. 6293(c); 42 U.S.C. 6314(d)). Similarly, DOE must use these test procedures to determine whether the product or equipment complies with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s); 42 U.S.C. 6316(a))

Under 42 U.S.C. 6293 and 42 U.S.C. 6314, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or amending test procedures for covered products and equipment. Specifically, test procedures must be reasonably designed to produce test results that reflect energy efficiency, energy use or estimated annual operating cost of a covered product or covered equipment during a representative average use cycle or period of use, and must not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3); 42 U.S.C. 6314(a)(2))

B. Background

This final rule involves the regulatory provisions governing the submission and processing of test procedure waivers for both consumer products under Part A of EPCA and industrial equipment under Part A–1. DOE's regulations in Title 10 of the Code of Federal Regulations (''CFR''), § 430.27 (consumer products) and § 431.401 (commercial equipment), contain provisions allowing a person to seek a waiver from the test procedure requirements if certain conditions are met. DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedure evaluates the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1) and 10 CFR 431.401(a)(1). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. In addition, the waiver process permits parties submitting a petition for waiver to also file an application for interim waiver from the applicable test procedure requirements. 10 CFR 430.27(a) and 10 CFR 431.401(a). DOE will grant an interim waiver if it appears likely that the petition for waiver will be granted and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a decision on the petition for waiver. 10 CFR 430.27(e)(2) and 10 CFR 431.401(e)(2).

On May 1, 2019, DOE published a NOPR to amend the existing test procedure interim waiver process (''May 2019 NOPR''). 84 FR 18414. After considering the comments received, DOE published the December 2020 Final Rule, which significantly revised its procedures for test procedure interim waivers. 85 FR 79802.

The December 2020 Final Rule adopted an approach to DOE's test procedure interim waiver decision-making process that requires the Department to notify, in writing, an applicant for an interim waiver of the disposition of the request within 45 business days of receipt of the application. 10 CFR 430.27(e)(ii) and 10 CFR 431.401(e)(ii). Importantly, under the recent amendments, if DOE does not notify the applicant in writing of the disposition of the interim waiver within 45 business days, the interim waiver is granted automatically and the manufacturer is authorized to test subject products or equipment using the alternate test procedure proposed by the manufacturer in the petition. *Id.* If DOE denies the interim waiver petition, DOE is required to notify the petitioner within 45 business days and post the notice on the Department's website as well as publish its determination in the **Federal Register** as soon as possible after such notification. *Id.* If DOE ultimately denies an associated petition for waiver or grants the petition with a test procedure that differs from the alternate test procedure specified in the interim waiver, manufacturers are allowed a 180-day grace period before the manufacturer is required to use the DOE test procedure or the alternate test procedure specified in the decision and order to make representations regarding energy efficiency. 10 CFR 430.27(i)(1) and 10 CFR 431.401(i)(1).[6]

[3] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020).

[4] For editorial reasons, Part B was redesignated as Part A upon codification in the U.S. Code.

[5] For editorial reasons, Part C was redesignated as Part A–1 upon codification in the U.S. Code.

[6] In proposing an amendment to 10 CFR 430.27(i) and 431.401(i), DOE stated that—''The 180 day duration was proposed because that time frame is consistent with the EPCA provision that provides

In the December 2020 Final Rule, DOE made a policy decision to place significant weight on reducing manufacturers' burdens, providing greater certainty and transparency to manufacturers, and reducing delays in manufacturers' ability to bring innovative product options to consumers. 85 FR 79816. To justify these changes to DOE's interim waiver process, DOE noted that it intended to shift the burden of any delays in the review process onto the Department and allow for innovative products to be made available more quickly to consumers. 85 FR 79802, 79803 and 79811.

In the August 2021 NOPR, DOE stated that in reconsideration of the December 2020 Final Rule, DOE is weighing these policy considerations differently. DOE tentatively determined that the changes under the December 2020 Final Rule may not allow DOE sufficient time to review an alternate test procedure, leading to increased risks to consumers of purchasing noncompliant products, decreased energy savings, and an unfair playing field for competing manufacturers in the market. Given EPCA's goal of energy conservation and DOE's statutory obligations under EPCA, in this final rule DOE places greater weight on ensuring compliant test procedures, decreasing risks to consumers and manufacturers, and ensuring that DOE meets its statutory obligations. 86 FR 46793, 46795.

In response to the August 2021 NOPR, DOE received comments from the interested parties listed in Table II.1.

TABLE II.1—WRITTEN COMMENTS RECEIVED IN RESPONSE TO AUGUST 2021 NOPR

Commenter(s)	Reference in this final rule	Commenter type
Appliance Standards Awareness Project, American Council for an Energy-Efficient Economy, Consumer Federation of America, National Consumer Law Center (on behalf of its low-income clients), and Natural Resources Defense Council.	Joint Advocates	Efficiency Organizations.
Sierra Club and Earthjustice	Sierra Club and Earthjustice	Efficiency Organizations.
Attorneys General of New York, Colorado, Connecticut, Illinois, Maine, Maryland, Michigan, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Vermont, Washington, the Commonwealths of Massachusetts And Pennsylvania, the District Of Columbia and the City Of New York.	Joint Attorneys General	State and Local Governments.
Connecticut Department of Energy and Environmental Protection	DEEP	State.
California Investor-Owned Utilities (Pacific Gas and Electric, San Diego Gas and Electric, and Southern California Edison).	CA IOUs	Utility.
Madison Indoor Air Quality	MIAQ	Manufacturer.
North American Association of Food Equipment Manufacturers	NAFEM	Trade Association.
Air-Conditioning, Heating, and Refrigeration Institute	AHRI	Trade Association.
Air-Conditioning, Heating, and Refrigeration Institute, Association of Home Appliance Manufacturers, and National Electrical Manufacturers Association.	Joint Commenters	Trade Associations.
Carrier Corporation	Carrier	Manufacturer.
Bradford White Corporation	BWC	Manufacturer.
Lennox International Inc	Lennox	Manufacturer.

A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.[7]

Other comments pertaining to specific proposals are discussed in section III.

III. Discussion

As noted previously, DOE is required to develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of each covered product and covered equipment during a representative average use cycle or period of use. (42 U.S.C. 6293; 42 U.S.C. 6314) Manufacturers of covered products and covered equipment must use the prescribed DOE test procedure to certify that their products and equipment meet the applicable energy conservation standards adopted under EPCA, and also when making any other representations to the public regarding the energy use or efficiency of those products. (42 U.S.C. 6293(c), 6295(s), 42 U.S.C. 6314(d) and 42 U.S.C. 6316(a)) In accordance with EPCA, manufacturers are prohibited from distributing a covered product without first demonstrating compliance with applicable standards through the use of DOE test procedures. (42 U.S.C. 6302(a)(5), 42 U.S.C. 6295(s))

DOE has determined that, upon weighing the aforementioned policy considerations differently, certain provisions implemented by the December 2020 Final Rule are not appropriate or necessary. DOE acknowledges that its interim waiver process often involves a lengthy period following submission of interim waiver and waiver applications and imposes burdens on manufacturers who are unable to certify their products or equipment absent an interim waiver or waiver from DOE. The December 2020 Final Rule, however, mandates a process that, by prioritizing the speeding up of the petition process, may result in alternate test procedures that are inconsistent with EPCA's purpose and requirements and have adverse environmental impacts. Further, to encourage waivers and prevent the Department's administrative waiver process from delaying or deterring the introduction of novel, innovative products into the marketplace, the Department has a long-stated Enforcement Policy Statement—Pending Test Procedure Waiver Applications

manufacturers 180 days from issuance of a new or amended test procedure to begin using that test procedure for representation of energy efficiency.'' 84 FR 18414, 18416; (*See* 42 U.S.C. 6293(c)(2)). In the December 2020 Final Rule, DOE stated that it was maintaining the 180-day grace period as proposed. 85 FR 79802, 79813. As such, under 10 CFR 430.27(i) and 431.401(i) as finalized in the December 2020 Final Rule, were a Decision and Order issued with an alternate test procedure that differed from that required under the interim waiver, beginning 180 days following publication of the Decision and Order any representations made by the petitioner must fairly disclose the results of testing in accordance with the alternate test procedure specified by the final Order and the applicable requirements of 10 CFR part 429.

[7] The parenthetical reference provides a reference for information located in the docket of DOE's rulemaking to amend the test procedure interim waiver process. (Docket NO. EERE–2019–BT–NOA–0011, which is maintained at *www.regulations.gov*). The references are arranged as follows: (Commenter name, comment docket ID number, page of that document).

(''Test Procedure Waiver Enforcement Policy''), which provides that DOE will refrain from an enforcement action related to a specific basic model while a waiver request is pending.[8]

A. Automatic Granting of Interim Waiver After Prescribed Time Period

Under the interim waiver process established in the December 2020 Final Rule, an interim waiver granted by default after the 45-day period would lack DOE review and would not benefit from a determination that the alternate test procedure meets EPCA requirements. As demonstrated in the examples discussed in this section, DOE often requires longer than 45 business days to adequately evaluate an alternate test procedure in order to determine whether the proposed test procedure accurately reflect the product's energy consumption during an average use cycle. The default waiver process may result in test procedures later found to be inconsistent with EPCA, which would allow manufacturers to distribute noncompliant products in commerce, resulting in additional costs (*i.e.,* cost of energy use) to consumers and materially inaccurate information to the marketplace.

DOE noted in the December 2020 Final Rule that some commenters stated that the amendments to the interim waiver process would weaken the energy conservation standards program because the automatic granting of interim waivers without review could place noncompliant products in the market and allow them to remain for an additional 180 days after DOE acts on the associated petition. 85 FR 79802, 79806. In addition, some commenters noted that the amendments could indirectly allow for backsliding of energy conservation standards, noting that 42 U.S.C. 6295(o)(1) forbids DOE from prescribing an energy conservation standard that decreases the required energy efficiency of a product. 85 FR 79802, 79813. These commenters argued that the amendments proposed in the May 2019 NOPR (and that were ultimately adopted in the December 2020 Final Rule) would lead to the same loss of efficiency that EPCA's anti-backsliding provision was intended to prevent. *Id.* DOE's decision under the December 2020 Final Rule reflected a policy choice to reject these comments raising concerns about the risks of non-compliant products in favor of perceived greater certainty and transparency, and a less burdensome process for manufacturers. In support of the December 2020 Final Rule, DOE explained that the changes were in response to concerns that the current system for processing interim waiver petitions was not working as it should, and in DOE's view, manufacturers should not be constrained from selling their products for significant periods while DOE reviews the interim waiver petition. 85 FR 79802, 79807.

Analyses of recent petitions indicate that, based on the time required to review appropriately and respond properly to interim waiver requests, the number of noncompliant test procedures granted without sufficient time to review would be higher than DOE estimated previously. As noted, allowing any test procedure that does not provide an accurate, representative result runs counter to DOE's statutory obligations under EPCA.

One example illustrating DOE's concerns is as follows. On June 30, 2021, DOE issued a notice denying the interim waiver application from General Electric Appliance (''GEA'') for certain miscellaneous refrigeration product (''MREF'') basic models. 86 FR 35766. The original petition for waiver and interim waiver from the test procedure for MREFs set forth at appendix A to subpart B of 10 CFR part 430 was received on April 9, 2021. (EERE–2021–BT–WAV–0009, GEA, No. 1 at p. 1) As discussed in the August 2021 NOPR, from the time that DOE received GEA's original petition, to the time that the petition was denied, 55 business days passed. DOE was provided more than the 45-business day period in this case because GEA revised and supplemented its original petition in response to DOE's technical questions. However, if DOE did not have sufficient time to gather the additional information about GEA's MREF basic models and how such models are applied in the field, an alternate test procedure could have erroneously been applied that did not meet the requirements in EPCA. DOE needed time to understand more about the product and the proposed alternate test procedure, and after several exchanges, came to understand that the GEA proposed alternate test procedure did not include all the energy consumption to represent an average use cycle and thus, the test procedure proposed by GEA was not representative. *See* 42 U.S.C. 6293. If the alternate test procedure proposed by GEA was automatically granted, the tested energy use of the basic models subject to the interim waiver would have been based on a test procedure that improperly underestimates the energy consumption of the product and would not have provided accurate information to the customers about the representative average use of the product.

In another example, on October 25, 2016, AHT Cooling Systems GmbH and AHT Cooling Systems USA, Inc. (''AHT'') filed a petition for waiver and interim waiver from the DOE test procedure for commercial refrigeration equipment set forth in 10 CFR part 431, subpart C, appendix B. (EERE–2017–BT–WAV–0027, AHT, No. 1 at pp. 1–10) AHT petitioned for waiver for six model lines that are capable of multi-mode operation (*i.e.,* as ice cream freezer and commercial refrigerator). In the petition, AHT stated that the DOE test procedure is not clear regarding how to test multi-mode equipment. 82 FR 15345, 15349. To address multi-mode operation, AHT requested that their equipment be tested and rated only as ice cream freezers (with integrated average temperature of $-15\,°F +/- 2.0\,°F$ and use of total display area to determine associated energy conservation standards). 82 FR 15345, 15349–15350. As discussed in the August 2021 NOPR, AHT's proposed alternate test procedure would have rated its multi-mode basic models in a manner that was unrepresentative because it would have only accounted for ice-cream freezer mode operation and would not have accounted for operation in the other applicable equipment categories. 82 FR 15345, 15347. After evaluating AHT's petition and alternate test procedure, DOE partially granted AHT's interim waiver. 82 FR 15345. DOE required 102 business days for this review. If DOE had not had sufficient time to evaluate this test procedure waiver and AHT had moved forward with its request without modification, AHT would not have evaluated the multi-mode operation in a manner representative of field use in each applicable equipment category, which would have resulted in equipment being distributed in commerce that may have otherwise been non-compliant with the energy conservation standards.

DOE has determined that the December 2020 Final Rule did not place sufficient weight on the potential for alternate test procedures granted without sufficient DOE review to allow manufacturers to place products in the market that do not meet applicable energy conservation standards. To the extent that test procedure results are unrepresentative and do not provide comparative data, energy savings may not be realized, and consumers may not be able to make informed choices. As discussed previously, DOE has an

[8] Department of Energy, Enforcement Policy Statement—Pending Test Procedure Waiver Applications (Apr. 5. 2017), available at *www.energy.gov/sites/default/files/2017/04/f34/Enforcement%20Policy%20-%20waivers.pdf.*

obligation under EPCA to ensure that all test procedures authorized by the Department yield measurements of energy consumption that are representative of actual product or equipment performance. (42 U.S.C. 6293) As commenters noted in the December 2020 Final Rule, a DOE test procedure that inaccurately measures energy use of a covered product or equipment could inadvertently allow for the backsliding of energy conservation measures in violation of 42 U.S.C. 9265(o). As seen with the GEA and AHT petitions, DOE cannot appropriately determine whether an alternate test procedure will accurately measure energy use if there is insufficient time to understand a product and validate an alternate test procedure. Accordingly, DOE proposed removing the provision that interim waivers will be automatically granted if DOE fails to notify the petitioner of the disposition of the petition within 45 business days of receipt. DOE also proposed to remove the language at 10 CFR 430.27(e)(1)(iii) and 10 CFR 431.401(e)(1)(iii) specifying when a petition is considered ''received'' by DOE. These provisions were added for purposes of determining the start of the 45-business day window and serve no purpose upon removing the provision to automatically grant an interim waiver within a specified time period.

DOE requested comments, information, and data on its proposal to remove the provision that interim waivers will be automatically granted if DOE fails to respond to the request within 45 business days of receipt of the petition.

DOE received comments expressing support for DOE's proposal to remove the provision that interim waivers will be automatically granted if DOE fails to respond to the request within 45 business days of receipt of the petition. (DEEP, No. 59 at p. 1; Lennox, No 60 at p. 1–3; Joint Attorneys General, No. 63 at pp. 1–2; CA IOUs, No. 64 at p. 1; Joint Advocates, No. 65 at p. 1; Carrier, No. 66 at p. 1; Sierra Club and Earthjustice, No. 67 at p. 1) Sierra Club and Earthjustice stated that the changes DOE adopted to the test procedure waiver process in December 2020 are unlawful, and stated that in proposing to discard this provision, DOE will close a loophole for manufacturers to offer noncompliant products that increase air pollutant emissions and impose higher energy costs on end-users. (Sierra Club and Earthjustice, No. 67 at p. 1) Joint Advocates noted a similar elimination of a pathway for noncompliant products to be brought into the market. (Joint Advocates, No. 65 at p. 1) Similarly, Carrier stated that DOE rightly identified the risk that the default waiver process may result in manufacturers distributing products in commerce that result in additional costs to consumers, and that automatically granting petitions increases the risk that a level marketplace is not maintained for all competitors. (Carrier, No. 66 at p. 1) Lennox agreed that a ''granted by default'' approach would weaken the energy conservation standards program by placing noncompliant products on the market. (Lennox, No. 60 at p. 2) The Joint Attorneys General stated that the proposal to eliminate automatic waivers would restore a process that affords DOE the necessary time and discretion to properly review waiver requests to ensure that alternate test procedures meet EPCA requirements. (Joint Attorneys General, No. 63 at p. 2)

Several interested parties expressed qualified support and/or alternatives for DOE's proposal to remove the provision that interim waivers will be automatically granted if DOE fails to respond to the request within 45-business days of receipt of the petition. MIAQ stated that a passive grant of an interim test procedure waiver assures timeliness but does not protect against potential for gamesmanship or ensure transparency, and that DOE should undertake an affirmative completeness assessment prior to granting an interim waiver. (MIAQ, No. 61 at p. 1) For most petitions for interim waivers, the Joint Commenters and AHRI expressed support to remove the requirement that an interim waiver is automatically granted after 45 days. (Joint Commenters, No. 69 at pp. 3–4; AHRI, No. 70 at p. 2) AHRI stated that while interim test procedures are temporary and the impact of harm would be limited, a fraudulently gained interim test procedure waiver could result in unfair market impacts. (AHRI, No. 70 at p. 2) AHRI advocated for affirmative intervention by DOE before an interim waiver is granted. (*Id.*) The Joint Commenters stated that they recognize DOE and manufacturers' interest in ensuring interim waivers are fair and accurate and a good predictor of the ultimate final test procedure waiver. (Joint Commenters, No. 69 at pp. 3–4) However, the Joint Commenters and AHRI stated that the current requirement—that the petition is deemed granted if DOE does not respond within 45 days of receipt of a complete notification—should continue to apply in two cases, specifically: (1) Waivers in which a petitioner seeks an interim waiver and waiver identical to one already granted to another company for models with similar technology (*i.e.,* ''same-technology waiver petitions''); and (2) waiver petitions that seek to extend alternate test methods granted in existing interim or final waivers to additional models (*i.e.,* ''waiver extension petitions''). (Joint Commenters, No. 69 at pp. 3–4, AHRI, No. 70 at p. 2) AHRI stated that in these cases, DOE has already done the resource- and time-intensive work of reviewing the alternate method of test, and in this case need only decide that the petition includes models that should be tested in the same way. (AHRI, No. 70 at p. 2) The Joint Commenters stated that these waivers do not require the same level of review, should be prioritized, and when combined with the proposal to make clear the criteria for the petition to extend a waiver to additional basic models, should reduce the back-and-forth needed. (Joint Commenters, No. 69 at p. 4)

Similarly, Carrier stated that in cases when the petitioner provides sufficient data to demonstrate that a request is the same as, or an extension of, a previously granted waiver petition, DOE should make a determination within 45 days. (Carrier, No. 66 at p. 2) Lennox stated that it does not oppose the ''granted by default'' approach staying in place when it involves a manufacturer simply adding additional models to an existing waiver or another manufacturer seeking the same relief that is already granted to a different company; however, Lennox noted that in these cases, DOE should affirmatively determine that the applications are administratively complete, publish receipt of application for such waivers on its website, and also publish notice of these waivers being granted both on its website and in the **Federal Register**. (Lennox, No. 60 at p. 7)

DOE received a comment objecting to its proposal from NAFEM. NAFEM stated that DOE should precisely define the information needed in a petition, but that as soon as a company submits a ''complete petition,'' DOE should make decisions within the existing 45-day process set forth in the December 2020 final rule. In addition, NAFEM recognized that there are times when a manufacturer submits a completely new and different waiver petition and DOE must initiate its review from scratch. In such cases, NAFEM stated that it would support, as a compromise alternative, DOE being allowed to request an additional 45 days (for a total of 90 days) for its review and response on new waiver petitions. (NAFEM, No. 62 at p. 3)

BWC noted that DOE is reversing course based on ''increased risk to

consumers of purchasing noncompliant products and decreased energy savings'' and requested that DOE expand on what data supports that the delayed energy savings from utilizing a test procedure waiver would be less than from potential noncompliant products on the market. (BWC, No. 68 at p. 1)

DOE has considered the suggestions by multiple commenters to maintain the automatic granting of interim waivers after 45 days for same-technology waiver petitions or waiver extension petitions. Contrary to assertions by commenters, DOE applies the same level of rigor and scrutiny during its review of same-technology waiver petitions and waiver extension petitions as it does for the initial interim waiver petitions. DOE reviews the details of each same-technology waiver petition to ensure that the alternate test procedure specified in the initial interim waiver would yield results that accurately reflect the product's energy consumption during an average use cycle so as to provide materially accurate comparative data. Despite employing the same or similar technology as a previously granted waiver, each manufacturer that petitions for a same-technology waiver may have unique product designs that require a similar timeframe for evaluation by DOE as the basic model subject to the original waiver, which as described, may require more than 45 business days. Similarly for waiver extension petitions, DOE must be afforded sufficient opportunity to review a waiver extension request to confirm not only that the additional basic models employ the same technology as the basic model set forth in the original petition, but that the alternate test procedure specified for the original basic model would evaluate the performance of the additional basic models in a manner representative of the energy and/or water consumption characteristics of the additional basic models.

The comment from BWC refers to DOE's statement in the August 2021 NOPR that DOE had tentatively determined that the changes under the December 2020 Final Rule may not allow DOE sufficient time to review an alternate test procedure, leading to increased risks to consumers of purchasing noncompliant products and decreased energy savings. 86 FR 46793, 46795. By this, DOE meant that the current process—in which an interim waiver will be automatically granted if DOE fails to respond to the request within 45 business days of receipt of the petition—increases the risk (with respect to the previous interim waiver process prior to the December 2020 Final Rule) that a manufacturer could place a product into the market for which the results of the suggested test procedure are not representative and therefore not appropriate for determining compliance with the applicable energy conservation standard. This risks the product not being complaint with the applicable standard when tested according to a test procedure that is not representative of average energy use. Placing a non-compliant product into the market would result in increased energy use (*i.e.,* decreased energy savings) by consumers.

DOE agrees with other commenters that any interim waiver granted should be the result of an affirmative determination by DOE. DOE has an obligation under EPCA to ensure that all test procedures authorized by the Department yield measurements of energy consumption that are representative of actual product or equipment performance. (42 U.S.C. 6293) A DOE test procedure that inaccurately measures energy use of a covered product or equipment could place noncompliant products in the market and/or inadvertently allow for the backsliding of energy conservation measures in violation of 42 U.S.C. 9265(o).

DOE also considered the suggestion that DOE be allowed to request an additional 45 days (for a total of 90 days) for its review and response on new waiver petitions. Despite the longer suggested timeframe for review, this approach would maintain the possibility of an interim waiver being automatically granted after 90 days, presenting the same risks to consumers as the current process, as described above.

Therefore, for the reasons discussed, DOE is removing the provision that interim waivers will be automatically granted if DOE fails to respond to the request within 45 business days of receipt of the petition.

B. Timeframe for Review of Interim Waivers

Separately from DOE's consideration of and determination not to automatically grant an interim waiver if DOE fails to respond to the request within 45 business days of receipt of the petition, DOE reconsidered whether a 45-business-day review timeframe provides sufficient time for DOE to properly evaluate a proposed alternate test procedure. As discussed in the December 2020 Final Rule, DOE's analysis of the processing time of 33 interim waivers between 2016 and 2018 showed review periods between the receipt of the waiver application and issuance of an interim waiver significantly longer than 45 business days. 85 FR 79802, 79812–79813. Of those 33 interim waiver requests, only four were granted within 45 business days of receipt. *Id.* On average, interim waiver requests received in 2016 took 162 days to resolve, those received in 2017 took 202 days, and those received in 2018 took 208 days. *Id.* DOE noted in the December 2020 Final Rule that this data illustrated that there was a need to issue decisions on interim waiver requests in a more timely manner. 85 FR 79802, 79813.

After further consideration, DOE acknowledges that there is a need for improvement in its process to more timely address interim waivers, but DOE has determined that the 45-business day timeframe implemented by the December 2020 Final Rule is often too brief and rigid. An inflexible rule can fail to take relevant circumstances into account. As seen with the GEA and AHT petitions, a longer timeframe is often needed for DOE to understand the product, the proposed alternate test procedure, and whether that alternate test procedure will accurately reflect the product's energy consumption during an average use cycle. Many delays in processing waiver and interim waiver petitions arise from iterative efforts by DOE to obtain sufficient information upon which to base a decision to grant an interim waiver. Determining that an alternate test procedure complies with EPCA also requires careful analysis and sometimes requires testing by DOE. DOE stated in the December 2020 Final Rule that a downside of this iterative process is the inability of interested stakeholders to participate in the development of an interim test procedure. 85 FR 79802, 79809. The amendments adopted in this final rule maintain transparency provided through posting of a complete petition within five days of its receipt and afford the development, as necessary, of the alternate test procedure on which stakeholders will have the opportunity to comment. Further, the regulations continue to require notification of a requested alternated test procedure to affected manufacturers and opportunity for comment. 10 CFR 430.24(b)(iv) and 10 CFR 431.401(b)(iv). DOE has a statutory obligation under EPCA to ensure that alternative test methods authorized by the Department yield measurements of energy consumption that are representative of actual performance. Providing a longer, flexible timeframe that better reflects DOE's experience will allow DOE to

complete the analysis required, while providing a realistic timeframe on which manufacturers can more reasonably rely.

Accordingly, DOE proposed in the August 2021 NOPR that DOE will make best efforts to respond to interim waiver requests within 90 business days. Based on DOE's experience, a period of 90 business days would still represent an improvement in response time, and in most cases would allow DOE sufficient time for proper analysis, review, and testing. Importantly, this longer timeframe would ensure that DOE can fulfill its obligation under EPCA to ensure that alternative test methods yield results that are representative of the product's true energy (or water) consumption characteristics so as to provide materially accurate comparative data, while still accounting for circumstances that dictate a lengthier period than the current 45-day requirement for consideration of a particular request.

DOE requested comments, information, and data on its proposal that DOE will make best efforts to respond to an interim waiver request within 90 business days.

DOE received comments expressing support for its proposal that DOE will make best efforts to respond to an interim waiver request within 90 business days from the Joint Attorneys General, DEEP, CA IOUs, and Joint Advocates. (Joint Attorney Generals, No. 63 at pp. 1–2,; DEEP, No. 59 at p. 1–2; CA IOUs, No. 64 at p. 1; Joint Advocates, No. 65 at p. 1) The Joint Advocates stated that DOE has proposed a balanced approach that recognizes the complexity of many waiver applications and the time that can be required for review, yet still provides applicants a prompt response. (Joint Advocates, No. 65 at p. 1) The CA IOUs stated that the proposal strikes the proper balance between making the interim waiver process quicker and more predictable, and ensuring DOE compliance with EPCA. (CA IOUs, No. 64 at p. 1) DEEP stated that this proposal should give DOE a more realistic amount of time to thoroughly review the request and to meet its obligations under EPCA. (DEEP, No. 59 at p. 2) The Joint Attorneys General stated that these changes are critically important to balance DOE's statutory obligations under EPCA and manufacturers' desire for timely review of their waiver applications; allowing DOE to obtain sufficient information from manufacturers, understand the product, validate the alternate test procedure, and complete the analysis required. (Joint Attorneys General, No. 63 at p. 2)

Carrier expressed qualified support of the proposal that DOE will make best efforts to respond to an interim waiver request within 90 business days, suggesting that DOE consider modifying the proposal to make an exception for certain cases noted previously, in which 45 days should be required. (Carrier, No. 66 at p. 2)

DOE received comments opposing DOE's proposal that it make its best efforts to respond within 90 days from the Joint Commenters, BWC, MIAQ, AHRI, Lennox, and NAFEM. (Joint Commenters, No. 69 at p. 3; BWC, No. 68 at p. 1; MIAQ, No. 61 at p. 2; AHRI; No. 70 at p. 2; Lennox, No. 60 at p. 4; NAFEM; No. 62 at p. 3) As stated previously, NAFEM supported the requirement to make a decision in 45 days or in certain circumstances a maximum of 90 days. (NAFEM, No. 62 at p. 3) BWC stated that, in acknowledgment that not all waiver requests are equal nor are submitted correctly the first time, it would prefer that DOE designate a longer, guaranteed time to respond to the waiver request versus a shorter, uncertain time, and that the timeline should be measured from when the test procedure was received. BWC did not identify a specific alternative timeline. (BWC, No. 68 at p. 1) The Joint Commenters asserted that it was unlikely that the 90-day timeline would be met by DOE and that there would be no incentive pushing DOE to meet that goal. Instead, the Joint Commenters proposed that DOE be required to complete review of the petition for interim and final waiver within 120 days. The Joint Commenters noted that this is longer than the 90 days that DOE proposed and would help to ensure that the stricter timeline can be met even under exigent circumstances. The Joint Commenters further asserted that a strict timeline is necessary to balance the sometimes competing needs for thoroughly vetted alternate procedures that are approved and finalized relatively quickly. (Joint Commenters, No. 69 at pp. 1–3)

Similarly, MIAQ and Lennox stated that DOE should be required to make a decision within a defined deadline. (MIAQ, No. 61 at p. 2; Lennox, No. 60 at p. 4) Lennox stated that DOE should have to respond within 90 to 120 days, measured from when DOE receives a complete petition (Lennox, No. 60 at p. 3). Lennox stated that DOE must promulgate an orderly, predictable, reasonably expeditious process for processing interim test procedure waivers, while also providing for transparency and stakeholder comment before issuing an interim waiver. Toward that end, Lennox said that DOE should (1) post to its public website an interim waiver petition immediately upon receipt (consistent with current regulations), and not wait to make such a posting until DOE deems those materials administratively ''complete;'' (2) within 30 days of receipt of a petition, if the request includes a technically feasible test procedure and appears administratively complete, DOE should make a preliminary finding in that regard and post a subsequent update to the website when DOE deems the petition complete and submit the petition and supporting documentation to the **Federal Register** for expedited publication for a 30 day public comment period; or if the request is not yet complete, notify the petitioner within that 30 day period; and (3) if stakeholders do not identify any problems during the comment period, DOE should render a decision within 30 days after the comment period close, or if problems are identified, DOE should either: (a) Afford itself an additional 30 days for review; or (b) deny or grant the waiver, potentially with modifications. (Lennox, No. 60 at pp. 4–6) Lennox also opposed removal of the language specifying when a petition is considered ''received'' by DOE, stating that some regulatory indication of this is appropriate for triggering obligations and timelines. (Lennox, No. 60 at p. 4) Lennox recommended that DOE seek comment before granting an interim waiver. (Lennox, No. 60 at p. 7)

MIAQ stated that DOE should be permitted no more than 120 days to process the interim waiver from the time that it is filed. This would include 30 days to review for completeness and publish in the **Federal Register** and on DOE's website, a 30-day comment period, a 30-day period for DOE to review comments and determine whether to grant or deny the waiver, and an additional 30-day optional review period. (MIAQ, No. 61 at p. 2)

AHRI similarly stated that DOE should be permitted no more than 120 days to process an interim waiver application from the time that it is filed. AHRI stated that DOE should afford stakeholders a thirty-day comment period after a proposal is published. It stated that: (1) If stakeholders and DOE do not identify any problems, DOE should be obligated to issue the interim waiver thirty days after the comment period closes; and (2) if DOE or other commenters note problems with the waiver application, DOE can elect to either afford itself an additional thirty days for investigation and review, or deny or grant the waiver, potentially with modifications. (AHRI, No. 70 at p. 2)

DOE has considered the suggestions by some commenters to implement a timeline that is longer than proposed 90-day target (*e.g.,* 120 days), but that would be mandatory. Although it is likely that 120 days would be sufficient for the vast majority of waiver and interim waiver petitions, any mandatory timeline that would result in the automatic granting of an interim waiver would introduce the previously described risks of an alternate test procedure being used that produces results that are unrepresentative, does not provide accurate comparative results, and/or allows a manufacturer to place a product in the market that does not meet applicable energy conservation standards.

Regarding the appropriateness of the proposed 90-day target, DOE's evaluation of waiver and interim waiver petitions since the December 2020 Final Rule indicates that a 90-day period of evaluation is achievable in most cases. Those cases that required longer than 90 days since the submission of the initial petition have been cases where DOE determined that initial petition to be invalid, or where additional time has been required for DOE to actively engage with the manufacturer to provide additional technical information necessary for DOE to evaluate the merits of the petition.

DOE also surmises that maintaining a mandatory timeline may increase the likelihood of an interim waiver denial in the event that there is insufficient time for DOE to resolve outstanding questions regarding the petition; whereas, affording a longer time period within which to actively engage the manufacturer could result in a petition being granted that would have otherwise been denied under a mandatory timeline scenario.

Regarding the timing of when DOE posts a waiver or interim waiver application to its website, DOE disagrees with commenters that suggested that DOE post an interim waiver petition on its public website immediately upon receipt, rather than waiting until DOE deems the petition to be complete. Most notably, DOE has received multiple interim waiver petitions containing requests for confidential treatment of information [9] without a corresponding copy from which the information claimed to be confidential has been properly deleted consistent with the request.[10] In such cases, DOE engages with the manufacturer to resubmit the petition with the information for which confidential treatment is requested properly redacted before posting to DOE's website. This is one of several ''checks'' that DOE performs on every waiver and interim waiver petition to determine whether an application is complete. Were DOE to be required to post a waiver or interim waiver petition to its website before determining that the petition is complete, CBI could be disclosed inadvertently, among other risks.

Once complete, a petition is posted to DOE's website providing interested parties notification that DOE is evaluating a request for an interim waiver along with the substance of that petition. The regulations continue to require petitioners to notify potentially interested manufacturers. 10 CFR 430.27(c)(1) and 10 CFR 431.401(c)(1). DOE notes that neither the process established under the December 2020 Final Rule, nor the process adopted in this final rule provide for a formal comment process for petitions posted to DOE's website. The amendments adopted today continue to provide for publication in the **Federal Register** notification of receipt of a petition and grant or denial of an interim waiver. *Id.*

DOE considered the potential benefits and risks of allowing the opportunity for public comment before granting a decision on an interim waiver petition. However, introducing a comment period before rendering a decision on an interim waiver petition would prolong the review process, outweighing the benefit of early stakeholder input. As discussed, the current process affords interested parties the ability to comment on the alternate test procedure granted in an interim waiver before DOE makes a determination whether to grant a waiver.

After carefully considering the comments received on this topic, DOE has decided to implement a 90-day target for reviewing interim waiver petitions, which would not be mandatory, and which would provide a more realistic and appropriate timeline for evaluating interim waiver petitions than the current mandatory 45-day period. As discussed, DOE's recent experience indicates that a 90-day timeline should be sufficient for the vast majority of interim waiver petitions; and the flexibility to extend beyond 90 days as needed will afford additional time for those petitions for which a longer timeframe is necessary. This final rule implements the 90-day target as proposed in the August 2021 NOPR.

C. Clarification of Necessary Contents of Interim Waiver

To clarify the necessary contents of a petition for interim waiver, DOE proposed amendments to 10 CFR 430.27(b) and 10 CFR 431.401(b), which specify the requirements for petition content and publication. As noted previously, many of the delays in interim waiver processing arise from the back-and-forth between DOE and manufacturers to ensure that the manufacturer has submitted the necessary information to support its request. Before DOE can act on a request for interim waiver, DOE may correspond with a manufacturer several times to obtain all necessary information and ensure that the manufacturer has submitted a complete petition. In addition, to formalize the process by which DOE will respond to incomplete petitions, DOE proposed to specify at 10 CFR 430.27(e)(2) and 10 CFR 431.401(e)(2) that a petition for interim waiver will be considered incomplete if it does not meet the content requirements of 10 CFR 430.27(b) or 10 CFR 431.401(b), as applicable. In such a case, DOE would notify the petitioner of an incomplete petition via email. DOE would continue the iterative process by which DOE assists manufacturers in completing their petitions. Consistent with these proposals, DOE also proposed to state at 10 CFR 430.27(e)(1) and 10 CFR 431.401(e)(1) that DOE will post a petition for interim waiver on its website within five business days of receipt of a *complete* petition.

DOE similarly proposed amendments to 10 CFR 430.27(g) and 10 CFR 431.401(g) to specify the information that must be provided in a request to extend a waiver to additional basic models. Specifically, DOE proposed that the petition for extension must identify the particular basic model(s) for which a waiver extension is requested, each brand name under which the identified basic model(s) will be distributed in commerce, and documentation supporting the claim that the additional basic models employ the same technology as the basic model(s) set forth in the original petition. Including these requirements in the regulations would make clear to manufacturers the

[9] Pursuant to 10 CFR 430.27(b)(1)(iv) and 10 CFR 431.401(b)(1)(iv), any request for confidential treatment of any information contained in a petition for waiver or in supporting documentation must be accompanied by a copy of the petition, application, or supporting documentation from which the information claimed to be confidential has been deleted. DOE will publish in the **Federal Register** the petition and supporting documents from which confidential information, as determined by DOE, has been deleted in accordance with 10 CFR 1004.11 and will solicit comments, data, and information with respect to the determination of the petition.

[10] For example, in one such case, the redacted information could be discerned by copying and ''pasting'' the blacked-out text from the PDF document into a new document.

information required for an extension request and allow DOE to process such requests more expeditiously.

DOE requested comments on its proposals to specify the contents of a complete petition for interim waiver, to formalize the process by which DOE will respond to incomplete petitions, and to specify the information that must be provided in a request to extend a waiver to additional basic models.

DOE received comments expressing support for these proposals from multiple interested parties. The Joint Advocates stated that DOE has made clear in the proposed rule what constitutes a complete application. (Joint Advocates, No. 65 at p. 1–2) The CA IOUs stated that they appreciate DOE's efforts to clarify its data needs for waiver evaluation and anticipate that this will limit confusion and unnecessary delays so that DOE can more easily strive towards the new proposed evaluation period. (CA IOUs, No. 64 at p. 1) DEEP stated that these proposed amendments will help increase clarity and transparency on the requirements for a complete interim waiver request and that these changes will benefit both the manufacturer(s) submitting the request and competitors subject to the same test procedure. DEEP also supported allowing iterative communication and assistance between DOE and a petitioner. (DEEP, No. 59 at p. 2)

The Joint Commenters, Carrier, and Lennox supported DOE's proposals to establish criteria for determining when an interim test procedure waiver application is complete. (Joint Commenters, No. 69 at p. 4; Carrier, No. 66 at p. 2; Lennox, No. 60 at p. 3) The Joint Commenters supported DOE reviewing each application to ensure completeness. (Joint Commenters, No. 69 at p. 4) Lennox added that the regulations should affirmatively require that an interim waiver application include an appropriate alternate test method before being deemed administratively complete. (Lennox, No. 60 at p. 3)

NAFEM stated that to maintain the 45-day review, NAFEM could support better guidance and clarity regarding what constitutes a ''complete petition'' to ensure that DOE received all of the necessary information for its decision-making process upfront. (NAFEM, No. 62 at p. 3)

The Joint Commenters and MIAQ supported a clearly articulated process by which DOE will respond to incomplete petitions. (Joint Commenters, No. 69 at p. 4; MIAQ, No. 61 at p. 2) BWC supported DOE's proposal to conduct communication with a manufacturer to clarify a waiver request via email versus formal letters. (BWC, No. 68 at p. 1)

DOE also received comments requesting additions to the proposal. BWC recommended that DOE provide a template or example of what information would ensure a proper submittal instead of just including it as text in the Code of Federal Regulations. (BWC, No. 68 at p. 1) The Joint Commenters and Carrier requested that DOE include a requirement that DOE respond to the petitioner within 10 business days regarding the completeness of their petition. (Carrier, No. 66 at p. 2; Joint Commenters, No. 69 at p. 4) Carrier requested that DOE consider including language to clearly articulate the iterative process by which DOE will assist manufacturers in completing their petitions. (Carrier, No. 66 at p. 2)

The Joint Commenters, Carrier, and MIAQ supported DOE's proposal to state at 10 CFR 430.27(e)(1) and 10 CFR 431.401(e)(1) that DOE will post a petition for interim waiver on its website within five business days of receipt of a complete petition. (Carrier, No. 66 at p. 2, Joint Commenters, No. 69 at p. 4; MIAQ, No. 61 at p. 2) Joint Advocates also supported this proposal, stating that posting complete applications in 5 days will improve transparency, providing notice to competitors and others that an application is under consideration. (Joint Advocates, No. 65 at p. 1–2) The Joint Commenters and MIAQ suggested DOE promote transparency by sending an email to the appropriate mailing lists to announce posting of a complete waiver petition. (Joint Commenter, No. 69 at p. 4; MIAQ, No. 61 at p.2)

Joint Commenters, Carrier, and MIAQ supported DOE's proposed amendments to 10 CFR 430.27(g) and 10 CFR 431.401(g) to specify the information that must be provided in a request to extend a waiver to additional basic models. (Carrier, No. 66 at p. 2; Joint Commenters, No. 69 at p. 4; MIAQ, No. 61 at p.2) NAFEM stated that there must be a clear and precise mechanism for extending waivers to additional basic models, noting that waivers must allow for manufacturers that are continuing to improve the products subject to the waiver, which then become similar but not identical products that should also be covered by the waiver. (NAFEM, No. 62 at p. 3)

DOE appreciates the suggestion by BWC regarding the usefulness of a template that would clearly outline the information required to ensure a complete waiver or interim waiver petition, which manufacturers could reference when drafting a petition. DOE will consider developing such a template or an example submission that could be made available on the Department's waiver website [11] following the effective date of this final rule.

Regarding the suggestion to require that DOE respond to the petitioner within 10 business days regarding completeness of petition—as a regular course of action, DOE typically notifies a manufacturer regarding the completeness of a petition within 5 business days of submission (as part of its obligation to satisfy the current requirements at 10 CFR 430.27(e)(1)(i) and 431.401(e)(1)(i) to post a petition for an interim waiver on its website within 5 business days of receipt). DOE believes that its current practice in this regard is working well and that an additional regulatory requirement regarding notification of completeness is not needed at this time.

Regarding the suggestion for DOE to clearly articulate in the waiver regulations the iterative process by which DOE will assist manufacturers in completing their petitions—in DOE's experience, in cases where DOE has determined that a submitted petition is incomplete, DOE notifies the manufacturer within 5 business days and explains how the petition is incomplete. The manufacturer then makes the required corrections and resubmits the petition. DOE reviews the revised petition and communicates any deficiencies to the manufacturer via email, as necessary, or proceeds with processing the petition if the revised petition meets the content requirements of 10 CFR 430.27(b) or 10 CFR 431.401(b). DOE believes that specifying the content requirements of a complete petition for interim waiver and the method by which DOE will communicate with manufacturers is sufficiently detailed and that an additional regulatory requirement regarding the process by which DOE assists manufacturers in submitting a complete petition is not needed at this time.

Regarding the suggestion by multiple commenters that DOE send an email to the appropriate mailing lists to announce posting of a complete waiver petition—DOE appreciates the suggestion and will consider incorporating this approach into its general practices moving forward. DOE notes that it already uses this communication approach for most

[11] DOE's waiver website is available at *www.energy.gov/eere/buildings/current-test-procedure-waivers.*

regulatory actions such as issuance of a test procedure rulemaking notice. DOE further notes that 10 CFR 430.27(c)(1) and 10 CFR 431.401(c)(1) require each petitioner for interim waiver, upon publication of a grant of an interim waiver in the **Federal Register**, notify in writing all known manufacturers of domestically marketed basic models of the same product or equipment class (as specified in 10 CFR 430.32 or the relevant subpart of 10 CFR part 431) and of other product or equipment classes known to the petitioner to use the technology or have the characteristic at issue in the waiver.[12] The notification must include a statement that DOE has published the interim waiver and petition for waiver in the **Federal Register** and the date the petition for waiver was published. The notification must also include a statement that DOE will receive and consider timely written comments on the petition for waiver.

In this final rule, DOE finalizes the amendments as proposed in the August 2021 NOPR to specify the contents of a complete petition for interim waiver, to formalize the process by which DOE will respond to incomplete petitions, and to specify the information that must be provided in a request to extend a waiver to additional basic models.

D. Duration of Applicability of Interim Waivers and Waivers

DOE proposed amendments to 10 CFR 430.27(h) and 10 CFR 431.401(h), which specify the duration of applicability of interim waivers and waivers. The current regulations provide that upon publication in the **Federal Register** of a new or amended test procedure that addresses the issue(s) presented in a waiver, an interim waiver will cease to be in effect. 10 CFR 430.27(h)(1)(ii) and 10 CFR 431.401(h)(1)(ii). Under this provision, a manufacturer can no longer rely on an interim waiver upon the *publication date* of a new or amended test procedure. In contrast, final waivers automatically terminate on the date on which use of such test procedure is required to demonstrate compliance (*i.e.,* a certain amount of time after the date of publication in the **Federal Register**). To ensure equitable treatment of final waivers and interim waivers that are in place at the time a test procedure final rule publishes, DOE proposed to specify that final waivers and interim waivers both automatically terminate on the compliance date of the amended test procedure that addresses the issues presented in a waiver or interim waiver.

DOE requested comments on its proposal to specify that interim waivers in place at the time a test procedure final rule is published will automatically terminate on the compliance date of the amended test procedure.

Joint Commenters, Carrier, and MIAQ supported DOE's proposal to specify that final waivers and interim waivers both automatically terminate on the compliance date of the amended test procedure, stating that this would ensure equitable treatment of manufacturers complying under both final waivers and interim waivers. (Carrier, No. 66 at p. 3; MIAQ, No. 61 at p. 3; Joint Commenters, No. 69 at p. 4) BWC supported waivers and interim waivers terminating when the new or revised test procedure becomes effective, rather than when it is published. (BWC, No. 68 at p. 2)

NAFEM stated that a blanket rule on terminating interim waivers is improper and that only waivers that were clearly addressed by the new test procedure can be terminated, but that others not addressed should be allowed to stand, as appropriate. (NAFEM, No. 62 at p. 4)

Lennox noted that the proposed regulatory text for the commercial provisions at 10 CFR 431.401(h)(2) is missing the word ''terminate.'' (Lennox, No. 60 at p. 8)

The proposed provisions specified that when DOE amends the test procedure *to address the issues presented in a waiver* [emphasis added], the waiver or interim waiver would automatically terminate on the compliance date of the amended test procedure. Were DOE to publish an amended test procedure that did not address the issues presented in a particular waiver or interim waiver (*e.g.,* an amended test procedure was necessary to make limited and specific corrections, or the timing of a test procedure final rule did not afford full consideration of a granted waiver or interim waiver), such waiver or interim waiver would continue to apply until such time as DOE amends the test procedure to address the issues presented in such waiver or interim waiver.

This final rule finalizes the amendments as proposed in the August 2021 NOPR to specify that when DOE amends a test procedure to address the issues presented in a waiver, the waiver or interim waiver will automatically terminate on the compliance date of the amended test procedure. This final rule also adds the word ''terminate'' at 10 CFR 431.401(h)(2), which was missing in the proposed regulatory text of the August 2021 NOPR. In addition, DOE is also adopting language at 10 CFR 430.27(h)(4) and 10 CFR 431.401(h)(4) to specify when an existing waiver terminates following the issuance of a modified waiver.

E. Transition Period for Compliance With Decision and Order or Amended Test Procedure

DOE proposed amendments to 10 CFR 430.27(i) and 10 CFR 431.401(i) (*Compliance Certification*) to clearly state the transition period for compliance with a decision and order or test procedure final rule. These amendments are necessary to make clear the transition periods for scenarios not previously addressed by these provisions. As proposed, these provisions would apply to required certifications and any representations. DOE proposed to specify at 10 CFR 430.27(i)(1)[13] and 10 CFR 431.401(i)(1) that manufacturers have 180 days (or up to 360 days, as applicable for commercial equipment and as specified by DOE in the final decision and order) to comply with a decision and order or test procedure methodology, unless otherwise specified by DOE in the decision and order. DOE also proposed to specify at 10 CFR 430.27(i)(1) and 10 CFR 431.401(i)(1) that once a manufacturer uses the decision and order test procedure methodology in a certification report or any representation, all subsequent certification reports and any representations would be required to be made using the decision and order test procedure methodology while the waiver is valid.[14]

In addition, DOE proposed similar amendments to clarify when certification reports and any representations are required to be based on a new or amended test procedure. Specifically, DOE proposed that 10 CFR

[12] Similarly, 10 CFR 430.27(c)(2) and 10 CFR 431.401(c)(2) require that if a petitioner does not request an interim waiver and notification has not been provided pursuant to paragraph (c)(1), each petitioner, after filing a petition for waiver with DOE, and after the petition for waiver has been published in the **Federal Register**, must, within five working days of such publication, notify in writing all known manufacturers of domestically marketed units of the same product or equipment class (as listed in 10 CFR 430.32 or the relevant subpart of 10 CFR part 431) and of other product or equipment classes known to the petitioner to use the technology or have the characteristic at issue in the waiver. The notification must include a statement that DOE has published the petition in the **Federal Register** and the date the petition for waiver was published.

[13] In the August 2021 NOPR, these proposed amendments were inadvertently included in the proposed regulatory text at 10 CFR 430.27(i) rather than at 10 CFR 430.27(i)(1) as indicated by the preamble discussion.

[14] This aspect of the proposal was included in the proposed regulatory amendments at 10 CFR 431.401(i)(1) but was inadvertently omitted from the proposed amendments to 10 CFR 430.27(i)(1).

430.27(i)(2) [15] and 10 CFR 431.401(i)(2) would provide that when DOE publishes a new or amended test procedure, certification reports and any representations may be based on the testing methodology of an applicable final waiver or interim waiver, or the new or amended test procedure until the compliance date of such test procedure. Thereafter, certification reports and any representations must be based on the test procedure final rule methodology unless specified by DOE in the test procedure final rule. Consistent with this provision, as necessary, DOE would be able to specify in a test procedure final rule that a manufacturer need not recertify basic models where testing under the interim waiver or final waiver test procedure methodology, as compared to the amended test procedure methodology, does not result in a change in measured energy use. DOE also proposed to specify that once a manufacturer uses the test procedure final rule methodology in a certification report or any representation, all subsequent certification reports and any representations must be made using the test procedure final rule methodology.

DOE requested comments on the proposed amendment to 10 CFR 430.27(i) and 10 CFR 431.401(i).

Carrier, MIAQ and the Joint Commenters supported the proposed changes to 10 CFR 430.27(i) and 10 CFR 431.401(i). (Carrier, No. 66 at p. 3, MIAQ, No. 61 at p. 2, Joint Commenters, No. 69 at p. 5) Carrier stated that these amendments would add additional clarity to the transition period scenarios. (Carrier, No. 66 at p. 3) The Joint Commenters stated that the proposed changes would provide a consistent process, promote certainty, eliminate duplicative testing, and reduce unnecessary burden, and added that the 180-day period would provide manufacturers a reasonable timeline to retest and recertify. (Joint Commenters, No. 69 at p. 5)

The Joint Commenters stated that DOE should maintain the existing language in these sections specifying that when basic models have already been certified using the test procedure permitted following DOE grant of an interim test procedure waiver, a manufacturer is not required to re-test and re-rate those basic models under certain circumstances, rather than the simplified language that DOE proposed. (Joint Commenters, No. 69 at p. 5) Lennox noted that DOE appears to have inadvertently left out transition provisions in 10 CFR 430.27(i), with the preamble describing proposals to 10 CFR 430.27(i)(1) and (2), which were not provided in the regulatory text. Lennox supported the proposed language as described in the preamble for these sections. (Lennox, No. 60 at p. 8)

Regarding the suggestion from the Joint Commenters that manufacturers not be required to re-test and re-rate under certain circumstances, were DOE to finalize in a decision and order an alternate test procedure that differs from the alternate test procedure specified in an interim waiver, or finalize an amended test procedure that differs from a granted alternate test procedure, any such change would be the result of a determination by DOE, supported by information and/or data, that the subsequent test procedure more appropriately provides representative results. However, the final rule also retains the flexibility for DOE to specify in the decision and order that a manufacturer is not required to re-test and re-rate basic models certified to an interim waiver under certain circumstances. As discussed above and as noted by commenters, the proposed amendments to the regulatory text at 10 CFR 430.27(i) inadvertently omitted language reflecting this intention in the context of consumer products. This final rule corrects this language and reflects the proposed amendments provided at 431.401(i), consistent with the intent of the preamble discussion in the August 2021 NOPR. DOE is also adopting language at 10 CFR 430.27(i)(3) and 10 CFR 431.401(i)(3) to explicitly provide that a manufacturer would have 180–360 days following a modification to a decision and order to comply with any such modification.

F. Consistency With Enforcement Requirements

DOE proposed amendments to 10 CFR 430.27(j) and 10 CFR 431.401(j) (*Petition for waiver required of other manufacturers*) for simplification and consistency with the enforcement requirements at 10 CFR part 429. Under 10 CFR 430.27(j) and 10 CFR 431.401(j) manufacturers of products or equipment employing a technology or characteristic for which a waiver was granted for another basic model must also seek a waiver for basic models of their product or equipment. Under these provisions, manufacturers currently distributing such products in commerce have 60 days to submit a waiver application, and manufacturers of such products that are not currently distributing such products in commerce must petition for and be granted a waiver prior to distribution in commerce. When originally implemented, the intent of these provisions was to ensure that similar products are rated in a comparable manner. 77 FR 74616, 74618. As discussed in the August 2021 NOPR, DOE sought to preserve this intent, but believes this language to be confusing when read in context with 10 CFR part 429. Pursuant to 10 CFR 429.12, a basic model must be certified prior to distribution in commerce, and that certification must be based on testing conducted in conformance with the applicable test requirements prescribed in 10 CFR parts 429, 430 and 431, or in accordance with the terms of an applicable test procedure waiver. *See* 10 CFR 429.12(c)(2). Manufacturers must comply with 10 CFR part 429 prior to distributing their product in commerce (*i.e.,* no grace period is provided), and 10 CFR part 429 draws no distinction between models currently being distributed and models that will be distributed in the future. To align with 10 CFR part 429, DOE proposed to remove the specification of a 60-day period and to make no distinction between models currently being distributed and models that will be distributed in the future. DOE stated in the August 2021 NOPR that it believes the proposed amendments would continue to achieve the original intent of paragraph (j) while better aligning with 10 CFR part 429.

DOE requested comments on the proposed amendment to 10 CFR 430.27(j) and 10 CFR 431.401(j).

Carrier and MIAQ supported DOE's proposal to amend 10 CFR 430.27(j) and 10 CFR 431.401(j) for simplification and consistency with the enforcement requirements at 10 CFR part 429. (Carrier, No. 66 at p. 3; MIAQ, No. 61 at p. 3) Carrier supported removing the 60-day period given to any manufacturer currently distributing in commerce products or equipment employing a technology or characteristic for which a waiver was granted for another basic model. (Carrier, No. 66 at p. 3)

NAFEM opposed DOE's proposed elimination of the 60-day period from 10 CFR 430.27(j) and 10 CFR 431.401(j), noting that small businesses trying to enter various market segments may need that small timing buffer to figure out and engage in the test procedure waiver process, and that there is only a small chance that a small business would actually introduce products to market within this short period, creating limited risk of compliance or enforcement issues. (NAFEM, No. 62 at p. 4)

[15] The proposed amendments to 10 CFR 430.27(i)(2) were inadvertently omitted from the proposed amendments to the CFR regulatory text in the August 2021 NOPR.

In response to NAFEM's comments regarding small businesses trying to enter market segments, DOE notes that the 60-day time period currently applies only to manufacturers already distributing in commerce in the United States a product employing a technology or characteristic that results in the same need for a waiver. The amendments that DOE is promulgating with this final rule (for example, more clearly specifying the requirements for submitting a valid waiver or interim waiver petition) would provide greater clarity and support for any small business seeking a test procedure waiver. In this final rule, DOE amends 10 CFR 430.27(j) and 10 CFR 431.401(j) consistent with the proposal from the August 2021 NOPR.

G. Reasons for Rescinding or Modifying Waiver or Interim Waiver

Finally, DOE proposed an amendment to 10 CFR 430.27(k)(1) and 10 CFR 431.401(k)(1). Currently those provisions provide that DOE may rescind or modify a waiver or interim waiver at any time upon DOE's determination that the factual basis underlying the petition for waiver or interim waiver is incorrect or upon a determination that the results from the alternate test procedure are unrepresentative of the basic model(s)' true energy consumption characteristics. As described in the August 2021 NOPR, DOE envisions that there could be other circumstances, such as new methodology, that might necessitate modification of a waiver. As such, DOE proposed to add to this provision that DOE may rescind or modify a waiver for other appropriate reasons.

DOE requested comments on the proposed amendment to 10 CFR 430.27(k)(1) and 10 CFR 431.401(k)(1).

The Joint Advocates expressed support for clarifying DOE's authority to rescind or modify a waiver for appropriate reasons such as the availability of a new testing methodology. (Joint Advocates, No. 65 at p. 2)

Joint Commenters, Carrier, Lennox, and NAFEM opposed DOE's proposal to allow DOE to rescind or modify a waiver for ''other appropriate reasons.'' (Joint Commenters, No. 69 at p. 6; Carrier, No. 66 at p. 4; Lennox, No. 60 at p. 7; NAFEM, No. 62 at p.3) Carrier stated that this would create unnecessary ambiguity and urged DOE not to modify the current provisions at 10 CFR 430.27(k)(1) and 10 CFR 431.401(k)(1). (Carrier, No. 66 at p. 4) Joint Commenters and Carrier stated that if DOE wants to modify the alternate test procedure granted in a waiver, it should do so through amendments to the test procedure and not through revisions to already-granted waivers. (Joint Commenters, No. 69 at p. 6; Carrier, No. 66 at p. 4) Lennox stated that it is unclear what DOE means by ''new methodology,'' and that if a defined category of circumstances exist where DOE may need to rescind an interim waiver, the regulations should state those circumstances specifically. Lennox asserted that the ''other appropriate reason'' language is insufficiently supported in the August 2021 NOPR. (Lennox, No. 60 at p. 7) NAFEM noted that this proposal would return the waiver process to the completely discretionary realm that, according to NAFEM, caused industry and DOE to revisit this process over the past several years of rulemakings. (NAFEM, No. 62 at p. 3)

Joint Commenters, MIAQ, and Lennox recommended that if DOE makes a determination to rescind a waiver based on false or inaccurate information, then the 180-day transition timeline should be discretionary. (Joint Commenters, No. 69 at p. 5; MIAQ, No. 61 at p.3; Lennox, No. 60 at p. 7)

DOE notes that the current provisions at 10 CFR 430.27(k)(1) and 10 CFR 431.401(k)(1) already provide DOE with authority to modify the alternate test procedure granted in a waiver under certain circumstances. In describing in the August 2021 NOPR a ''new methodology'' as one example of a circumstance that might necessitate modification of a waiver, DOE was referring to the possibility of a new or improved alternate test procedure (*i.e.,* methodology) that would provide results that are more representative than the alternate test procedure specified in a previously granted waiver. Another appropriate reason that might necessitate modification of a waiver is DOE being made aware of additional data that would suggest a more representative alternate test procedure than the alternate test procedure specified in a previously granted waiver (*e.g.,* data used as the basis for specifying a particular test condition or weighting factor). In such cases, DOE may determine that it is necessary to modify a previous waiver or interim waiver sooner than would be possible through the test procedure rulemaking process (*e.g.,* products such as consumer electronics with rapidly-changing markets; products such as room air conditioners with highly seasonal markets, in which new products are typically brought to market annually during a relative short period of time).

DOE notes that the current regulations at 10 CFR 430.27(k)(3) and 10 CFR 431.401(k)(3) require that any waiver recission or modification be subject to public comment, which provides interested parties an opportunity to comment on DOE's proposed recission or modification before DOE publishes a final decision. DOE did not propose any amendments to those sections of the CFR and any proposal by DOE to rescind or modify a waiver, for any reason, will be subject to those provisions.

In reference to comments regarding the transition timeline, if DOE were to make a determination to rescind a waiver based on false or inaccurate information, the provisions at 10 CFR 430.27(k)(5) and 10 CFR 431.401(k)(5) specify that after the effective date of a rescission, any basic model(s) previously subject to a waiver must be tested and certified using the applicable DOE test procedure in 10 CFR part 430 or part 431, as applicable. The manufacturer would thus be required to certify compliance using the applicable DOE test procedure no later than the effective date of the rescission. To further clarify the compliance requirements when a waiver is modified, DOE is adding provisions at 10 CFR 430.27(i)(3) and 10 CFR 431.401(i)(3) to specify the applicable grace periods. Similarly, 10 CFR 430.27(h)(4) and 10 CFR 431.401(h)(4) specify when an existing waiver terminates following the issuance of a modified waiver.

This final rule amends 10 CFR 430.27(k)(1) and 10 CFR 431.401(k)(1) consistent with the proposal in the September 2021 NOPR.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Information and Regulatory Affairs (''OIRA'') in the Office of Management and Budget (''OMB'') waived Executive Order (''E.O.'') 12866, ''Regulatory Planning and Review'' review of this rule.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of a final regulatory flexibility analysis (''FRFA'') for any final rule where the agency was first required by law to publish a proposed rule for public comment, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on

February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website (*www.energy.gov/gc/office-general-counsel*).

This final rule would not impose any new requirements on any manufacturers, including small businesses. This final rule removes the provision automatically granting interim waivers within 45 business days of receipt and adds a new provision that DOE will make best efforts to process an interim waiver request within 90 days of receipt. While this proposal allows DOE a longer period to review interim waiver petitions, in light of DOE's Test Procedure Waiver Enforcement Policy regarding models that are the subject of a pending test procedure waiver application, DOE expects that many manufacturers will choose to sell products tested in accordance with a filed petition while awaiting DOE's decision. As such, DOE anticipates any additional review period will minimally impact manufacturers, including small businesses.

Lennox stated that any enforcement guidance protections, whereby DOE refrains from enforcement for products while a waiver request is pending with DOE, should not arise until at least when DOE has deemed the relevant interim waiver petition administratively complete and submitted it for public comment in the **Federal Register**, in order to avoid manufacturers seeking unwarranted protection under such enforcement guidance merely by submitting an incomplete interim waiver application that has no chance of being approved as submitted. Lennox stated that a small delay of 30 days for DOE to determine completeness should not materially adversely impact manufacturers given lengthy product development cycles and should significantly increase consumer protections against non-compliant products. (Lennox, No. 60 at p. 8)

As discussed in section III.C, current practice is for DOE to notify a manufacturer regarding the completeness of a petition within 5 business days of submission. As such, it is highly unlikely that manufacturers would use this short period between submission and notification to introduce noncompliant products to the market. DOE has seen no evidence to suggest that a manufacturer would submit an incomplete interim waiver petition as a strategy for bringing a non-compliant unit to the market. Further, DOE's Test Procedure Waiver Enforcement Policy does not provide boundless enforcement protection for any manufacturer who has submitted a petition. If the waiver request is denied, DOE would still employ its enforcement discretion to determine whether to pursue enforcement action against a manufacturer for units sold while the (ultimately denied) application was pending.

Under this final rule, DOE is also specifying a number of requirements for complete petitions for interim waiver and petitions for an extension of a waiver. These are not new requirements (*i.e.,* petitions must currently include this information), but are being included in DOE's regulations to make clearer to manufacturers the information required for a petition or an extension request and to allow DOE to process such requests more expeditiously. DOE expects that these clarifications will decrease burden on manufactures by reducing instances of manufacturers submitting incomplete petitions, which will reduce administrative burden (*i.e.,* avoid the need to re-submit a petition) and allow manufactures to bring new products to the market more quickly.

DOE is also eliminating the 60-day period from 10 CFR 430.27(j) and 10 CFR 431.401(j) to align with enforcement requirements at 10 CFR part 429. DOE believes this amendment will minimally impact manufacturers, including small businesses, as they are already subject to the requirements at 10 CFR part 429, which provides no grace period. Finally, DOE believes its revisions to the compliance certification and representation requirements and clarification of the duration of interim waivers will provide clarity to manufacturers and does not increase the burden on manufacturers, including small businesses. DOE does not anticipate any impact on small businesses as a result of the amendments to 10 CFR 430.27(k)(1) and 10 CFR 431.401(k)(1).

For these reasons, DOE concludes that this final rule will not have a ''significant economic impact on a substantial number of small entities,'' and that the preparation of a FRFA is not warranted. DOE has submitted a certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of covered products/equipment must certify to DOE that their products comply with any applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their products according to the DOE test procedures, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment. 76 FR 12422 (March 7, 2011); 80 FR 5099 (Jan. 30, 2015). The collection-of-information requirement for certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (''PRA''). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

Specifically, this final rule, addressing revisions to DOE's test procedure waiver process, does not increase the burden hours or the number of entities that are subject to reporting under OMB control number 1910–1400.

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act (NEPA) of 1969, DOE has analyzed this proposed action in accordance with NEPA and DOE's NEPA implementing regulations (10 CFR part 1021). DOE has determined that this rule qualifies for categorical exclusion under 10 CFR part 1021, subpart D, appendix A5 because it is an interpretive rulemaking that does not change the environmental effect of the rule and meets the requirements for application of a CX. See 10 CFR 1021.410. Therefore, DOE has determined that promulgation of this rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA, and does not require an EA or EIS.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999), imposes

certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE examined this final rule and determined that it will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that each executive agency make every reasonable effort to ensure that when it issues a regulation, the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and has determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. (Pub. L. 104–4, sec. 201 (codified at 2 U.S.C. 1531)) For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *www.energy.gov/gc/office-general-counsel.* DOE examined this final rule according to UMRA and its statement of policy and has determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements under the Unfunded Mandates Reform Act do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this regulation will not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at *www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf.* DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use if the regulation is implemented, and of reasonable alternatives to the action and

their expected benefits on energy supply, distribution, and use.

This regulatory action is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Consistent With OMB's Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (the Bulletin). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as ''scientific information the agency reasonably can determine will have or does have a clear and substantial impact on important public policies or private sector decisions.'' *Id.* at 70 FR 2667.

In response to OMB's Bulletin, DOE conducted formal in-progress peer reviews of the energy conservation standards development process and analyses and has prepared a Peer Review Report pertaining to the energy conservation standards rulemaking analyses. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. The ''Energy Conservation Standards Rulemaking Peer Review Report,'' dated February 2007, has been disseminated and is available at the following website: *www1.eere.energy.gov/buildings/appliance_standards/peer_review.html.* Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE's analytical methodologies to ascertain whether modifications are needed to improve the Department's analyses. The results from that review are expected later in 2021 or early in 2022.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation test procedures, Incorporation by reference, and Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on December 3, 2021, by Kelly J. Speakes-Backman, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on December 7, 2021.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons stated in the preamble, DOE amends parts 430 and 431 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Section 430.27 is amended by revising paragraphs (b), (e), (g), (h), (i), (j), and (k)(1) to read as follows:

§ 430.27 Petitions for waiver and interim waiver of the test procedure.

* * * * *

(b) *Petition content and publication.* (1) Each petition for interim waiver and waiver must:

(i) Identify the particular basic model(s) for which a waiver is requested, each brand name under which the identified basic model(s) will be distributed in commerce, the design characteristic(s) constituting the grounds for the petition, and the specific requirements sought to be waived, and must discuss in detail the need for the requested waiver;

(ii) Identify manufacturers of all other basic models distributed in commerce in the United States and known to the petitioner to incorporate design characteristic(s) similar to those found in the basic model that is the subject of the petition;

(iii) Include any alternate test procedures known to the petitioner to evaluate the performance of the product type in a manner representative of the energy and/or water consumption characteristics of the basic model; and

(iv) Be signed by the petitioner or an authorized representative. In accordance with the provisions set forth in 10 CFR 1004.11, any request for confidential treatment of any information contained in a petition or in supporting documentation must be accompanied by a copy of the petition, application or supporting documentation from which the information claimed to be confidential has been deleted. DOE will publish in the **Federal Register** the petition and supporting documents from which confidential information, as determined by DOE, has been deleted in accordance with 10 CFR 1004.11 and will solicit comments, data and information with respect to the determination of the petition.

(2) In addition to the requirements in paragraph (b)(1) of this section, each petition for interim waiver must reference the related petition for waiver, demonstrate likely success of the petition for waiver, and address what

economic hardship and/or competitive disadvantage is likely to result absent a favorable determination on the petition for interim waiver.

* * * * *

(e) *Provisions specific to interim waivers*—(1) DOE will post a petition for interim waiver on its website within 5 business days of receipt of a complete petition. DOE will make best efforts to review a petition for interim waiver within 90 business days of receipt of a complete petition.

(2) A petition for interim waiver that does not meet the content requirements of paragraph (b) of this section will be considered incomplete. DOE will notify the petitioner of an incomplete petition via email.

(3) DOE will grant an interim waiver from the test procedure requirements if it appears likely that the petition for waiver will be granted and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. Notice of DOE's determination on the petition for interim waiver will be published in the **Federal Register**.

* * * * *

(g) *Extension to additional basic models.* A petitioner may request that DOE extend the scope of a waiver or an interim waiver to include additional basic models employing the same technology as the basic model(s) set forth in the original petition. The petition for extension must identify the particular basic model(s) for which a waiver extension is requested, each brand name under which the identified basic model(s) will be distributed in commerce, and documentation supporting the claim that the additional basic models employ the same technology as the basic model(s) set forth in the original petition. DOE will publish any such extension in the **Federal Register.**

(h) *Duration.* (1) Within one year of issuance of an interim waiver, DOE will either:

(i) Publish in the **Federal Register** a determination on the petition for waiver; or

(ii) Publish in the **Federal Register** a new or amended test procedure that addresses the issues presented in the waiver.

(2) When DOE publishes a decision and order on a petition for waiver in the **Federal Register** pursuant to paragraph (f) of this section, the interim waiver will terminate upon the data specified in the decision and order, in accordance with paragraph (i) of this section.

(3) When DOE amends the test procedure to address the issues presented in a waiver, the waiver or interim waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance.

(4) When DOE publishes a decision and order in the **Federal Register** to modify a waiver pursuant to paragraph (k) of this section, the existing waiver will terminate 180 days after the publication date of the decision and order.

(i) *Compliance certification and representations.* (1) If the interim waiver test procedure methodology is different than the decision and order test procedure methodology, certification reports to DOE required under 10 CFR 429.12 and any representations must be based on either of the two methodologies until 180 days after the publication date of the decision and order. Thereafter, certification reports and any representations must be based on the decision and order test procedure methodology, unless otherwise specified by DOE. Once a manufacturer uses the decision and order test procedure methodology in a certification report or any representation, all subsequent certification reports and any representations must be made using the decision and order test procedure methodology while the waiver is valid.

(2) When DOE publishes a new or amended test procedure, certification reports to DOE required under 10 CFR 429.12 and any representations must be based on the testing methodology of an applicable waiver or interim waiver, or the new or amended test procedure until the date on which use of such test procedure is required to demonstrate compliance, unless otherwise specified by DOE in the test procedure final rule. Thereafter, certification reports and any representations must be based on the test procedure final rule methodology. Once a manufacturer uses the test procedure final rule methodology in a certification report or any representation, all subsequent certification reports and any representations must be made using the test procedure final rule methodology.

(3) If DOE publishes a decision and order modifying an existing waiver, certification reports to DOE required under 10 CFR 429.12 and any representations must be based on either of the two methodologies until 180 days after the publication date of the decision and order modifying the waiver. Thereafter, certification reports and any representations must be based on the modified test procedure methodology unless otherwise specified by DOE. Once a manufacturer uses the modified test procedure methodology in a certification report or any representation, all subsequent certification reports and any representations must be made using the modified test procedure methodology while the modified waiver is valid.

(j) *Petition for waiver required of other manufactures.* Any manufacturer of a basic model employing a technology or characteristic for which a waiver was granted for another basic model and that results in the need for a waiver (as specified by DOE in a published decision and order in the **Federal Register**) must petition for and be granted a waiver for that basic model. Manufacturers may also submit a request for interim waiver pursuant to the requirements of this section.

(k) * * * (1) DOE may rescind or modify a waiver or interim waiver at any time upon DOE's determination that the factual basis underlying the petition for waiver or interim waiver is incorrect, upon a determination that the results from the alternate test procedure are unrepresentative of the basic model(s)' true energy consumption characteristics, or for other appropriate reason. Waivers and interim waivers are conditioned upon the validity of statements, representations, and documents provided by the requestor; any evidence that the original grant of a waiver or interim waiver was based upon inaccurate information will weigh against continuation of the waiver. DOE's decision will specify the basis for its determination and, in the case of a modification, will also specify the change to the authorized test procedure.

* * * * *

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 3. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 4. Section 431.401 is amended by revising paragraphs (b), (e), (g), (h), (i), (j), and (k)(1) to read as follows:

§ 431.401 Petitions for waiver and interim waiver of the test procedure.

* * * * *

(b) *Petition content and publication.* (1) Each petition for interim waiver and waiver must:

(i) Identify the particular basic model(s) for which a waiver is requested, each brand name under which the identified basic model(s) will be distributed in commerce, the design characteristic(s) constituting the

grounds for the petition, and the specific requirements sought to be waived, and must discuss in detail the need for the requested waiver;

(ii) Identify manufacturers of all other basic models distributed in commerce in the United States and known to the petitioner to incorporate design characteristic(s) similar to those found in the basic model that is the subject of the petition;

(iii) Include any alternate test procedures known to the petitioner to evaluate the performance of the equipment type in a manner representative of the energy and/or water consumption characteristics of the basic model; and

(iv) Be signed by the petitioner or an authorized representative. In accordance with the provisions set forth in 10 CFR 1004.11, any request for confidential treatment of any information contained in a petition or in supporting documentation must be accompanied by a copy of the petition, application or supporting documentation from which the information claimed to be confidential has been deleted. DOE will publish in the **Federal Register** the petition and supporting documents from which confidential information, as determined by DOE, has been deleted in accordance with 10 CFR 1004.11 and will solicit comments, data and information with respect to the determination of the petition.

(2) In addition to the requirements in paragraph (b)(1) of this section, each petition for interim waiver must reference the related petition for waiver, demonstrate likely success of the petition for waiver, and address what economic hardship and/or competitive disadvantage is likely to result absent a favorable determination on the petition for interim waiver.

* * * * *

(e) *Provisions specific to interim waivers.* (1) DOE will post a petition for interim waiver on its website within 5 business days of receipt of a complete petition. DOE will make best efforts to review a petition for interim waiver within 90 business days of receipt of a complete petition.

(2) A petition for interim waiver that does not meet the content requirements of paragraph (b) of this section will be considered incomplete. DOE will notify the petitioner of an incomplete petition via email.

(3) DOE will grant an interim waiver from the test procedure requirements if it appears likely that the petition for waiver will be granted and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. Notice of DOE's determination on the petition for interim waiver will be published in the **Federal Register**.

* * * * *

(g) *Extension to additional basic models.* A petitioner may request that DOE extend the scope of a waiver or an interim waiver to include additional basic models employing the same technology as the basic model(s) set forth in the original petition. The petition for extension must identify the particular basic model(s) for which a waiver extension is requested, each brand name under which the identified basic model(s) will be distributed in commerce, and documentation supporting the claim that the additional basic models employ the same technology as the basic model(s) set forth in the original petition. DOE will publish any such extension in the **Federal Register**.

(h) *Duration.* (1) Within one year of issuance of an interim waiver, DOE will either:

(i) Publish in the **Federal Register** a final determination on the petition for waiver; or

(ii) Publish in the **Federal Register** a new or amended test procedure that addresses the issues presented in the waiver.

(2) When DOE publishes a decision and order on a petition for waiver in the **Federal Register** pursuant to paragraph (f) of this section, the interim waiver will terminate upon the date specified in the decision and order, in accordance with paragraph (i) of this section.

(3) When DOE amends the test procedure to address the issues presented in a waiver, the waiver or interim waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance.

(4) When DOE publishes a decision and order in the **Federal Register** to modify a waiver pursuant to paragraph (k) of this section, the existing waiver will terminate upon the date specified in the decision and order, in accordance with paragraph (i) of this section.

(i) *Compliance certification and representations.* (1) If the interim waiver test procedure methodology is different than the decision and order test procedure methodology, certification reports to DOE required under 10 CFR 429.12 and any representations must be based on either of the two methodologies until 180–360 days after the publication date of the decision and order, as specified by DOE in the decision and order. Thereafter, certification reports and any representations must be based on the decision and order test procedure methodology, unless otherwise specified by DOE. Once a manufacturer uses the decision and order test procedure methodology in a certification report or any representation, all subsequent certification reports and any representations must be made using the decision and order test procedure methodology while the waiver is valid.

(2) When DOE publishes a new or amended test procedure, certification reports to DOE required under 10 CFR 429.12 and any representations must be based on the testing methodology of an applicable waiver or interim waiver, or the new or amended test procedure until the date on which use of such test procedure is required to demonstrate compliance, unless otherwise specified by DOE in the test procedure final rule. Thereafter, certification reports and any representations must be based on the test procedure final rule methodology. Once a manufacturer uses the test procedure final rule methodology in a certification report or any representation, all subsequent certification reports and any representations must be made using the test procedure final rule methodology.

(3) If DOE publishes a decision and order modifying an existing waiver, certification reports to DOE required under 10 CFR 429.12 and any representations must be based on either of the two methodologies until 180–360 days after the publication date of the decision and order modifying the waiver, as specified by DOE in the decision and order. Thereafter, certification reports and any representations must be based on the modified test procedure methodology unless otherwise specified by DOE. Once a manufacturer uses the modified test procedure methodology in a certification report or any representation, all subsequent certification reports and any representations must be made using the modified test procedure methodology while the modified waiver is valid.

(j) *Petition for waiver required of other manufactures.* Any manufacturer of a basic model employing a technology or characteristic for which a waiver was granted for another basic model and that results in the need for a waiver (as specified by DOE in a published decision and order in the **Federal Register**) must petition for and be granted a waiver for that basic model. Manufacturers may also submit a request for interim waiver pursuant to the requirements of this section.

(k) * * * (1) DOE may rescind or modify a waiver or interim waiver at any time upon DOE's determination that the factual basis underlying the petition for waiver or interim waiver is incorrect, upon a determination that the results from the alternate test procedure are unrepresentative of the basic model(s)' true energy consumption characteristics, or for other appropriate reason. Waivers and interim waivers are conditioned upon the validity of statements, representations, and documents provided by the requestor; any evidence that the original grant of a waiver or interim waiver was based upon inaccurate information will weigh against continuation of the waiver. DOE's decision will specify the basis for its determination and, in the case of a modification, will also specify the change to the authorized test procedure.

* * * * *

[FR Doc. 2021–26756 Filed 12–13–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0795; Project Identifier 2019–CE–054–AD; Amendment 39–21837; AD 2021–24–16]

RIN 2120–AA64

Airworthiness Directives; Daher Aerospace (Type Certificate Previously Held by SOCATA) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Daher Aerospace (type certificate previously held by SOCATA) Model TB 20 and TB 21 airplanes. This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracks on the main landing gear (MLG) legs. This AD requires repetitively inspecting the MLG and performing all applicable corrective actions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 18, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 18, 2022.

ADDRESSES: For service information identified in this final rule, contact Daher Aircraft Inc., Pompano Beach Airpark, 601 NE 10 Street, Pompano Beach, FL 33060; phone: (954) 893–1400; website: *www.tbm.aero.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0795.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0795; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the MCAI, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Gregory Johnson, Aviation Safety Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, MO 64106; phone: (720) 626–5462; fax: (816) 329–4090; email: *gregory.johnson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Daher Aerospace (type certificate previously held by SOCATA) Model TB 20 and TB 21 airplanes. The NPRM published in the **Federal Register** on September 17, 2021 (86 FR 51840). The NPRM was prompted by MCAI originated by the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union. EASA issued AD 2019–0274, dated November 6, 2019 (referred to after this as ''the MCAI''), to address an unsafe condition on all Daher Aerospace (formerly SOCATA) Model TB 20 and TB 21 airplanes. The MCAI states:

> Occurrences have been reported of finding cracks on MLG legs of TB 20 and TB 21 aeroplanes.
>
> This condition, if not detected and corrected, could lead to structural failure of an MLG leg and consequent MLG collapse, possibly resulting in damage to the aeroplane and injury to occupants.
>
> To address this potential unsafe condition, DAHER Aerospace issued the [service bulletin] SB to provide inspection instructions.
>
> For the reasons described above, this [EASA] AD requires repetitive special detailed inspections (SDI) using magnetic particle method of the affected MLG area, and, depending on findings, accomplishment of applicable corrective action(s).

You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0795.

Comments

The FAA received no comments on the NPRM or on the determination of the costs.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and service information referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. This AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Daher Aerospace Service Bulletin SB 10–154–32, dated September 2019. The service information contains procedures for repetitively inspecting the MLG area for cracks and performing any rework and repair. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 52 airplanes of U.S. registry. The FAA also estimates that it would take about 8 work-hours per airplane to perform the magnetic particle inspection required by this AD. The average labor rate is $85 per work-hour.

Based on these figures, the FAA estimates the inspection cost of this AD on U.S. operators to be $35,360, or $680 per airplane, per inspection cycle.

In addition, the FAA estimates that any necessary rework would take 12 work-hours and require parts costing $400, for a cost of $1,420 per airplane. The FAA has no way of determining the number of airplanes that may need these actions. If the reworked MLG area is found damaged during a follow-on magnetic particle inspection, because the damage may vary considerably from airplane to airplane, the FAA has no way of estimating this repair cost.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2021–24–16 Daher Aeropsace (Type Certificate Previously Held by SOCATA): Amendment 39–21837; Docket No. FAA–2021–0795; Project Identifier 2019–CE–054–AD.

(a) Effective Date

This airworthiness directive (AD) is effective January 18, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Daher Aerospace (type certificate previously held by SOCATA) Model TB 20 and TB 21 airplanes, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 3200, Landing Gear System.

(e) Unsafe Condition

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracks on the main landing gear (MLG) legs. The FAA is issuing this AD to prevent structural failure of an MLG leg and consequent collapse of the MLG. The unsafe condition, if not addressed, could result in damage to the airplane and injury to occupants.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Repetitive Inspections

(1) Before the MLG exceeds 16,000 landings since first installation on an airplane or within 200 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 3,200 landings, accomplish the magnetic particle inspection on each MLG for cracks in the left-hand and right-hand MLG leg and take all applicable corrective actions before further flight in accordance with the Description of Accomplishment Instructions in Daher Aerospace Service Bulletin SB 10–154–32, dated September 2019, except you are not required to contact the manufacturer. Instead, repair using a method approved by the Manager, International Validation Branch, FAA; the European Union Aviation Safety Agency (EASA); or Daher Aerospace's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature. For a repair to be approved as required by this paragraph, the approval letter must specifically refer to this AD.

(2) For the purposes of this AD, any maneuver resulting in weight on the MLG for any duration of time after initial takeoff counts as a landing. If the number of landings for the MLG is unknown, multiply the number of airframe hours by a factor of 3.6 and round up to the nearest whole landing.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (i)(1) of this AD or email: *9-AVS-AIR-730-AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(i) Related Information

(1) For more information about this AD, contact Gregory Johnson, Aviation Safety Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, MO 64106; phone: (720) 626–5462; fax: (816) 329–4090; email: *gregory.johnson@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2019–0274, dated November 6, 2019, for more information. You may examine the EASA AD in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0795.

(j) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Daher Aerospace Service Bulletin SB 10–154–32, dated September 2019.

(ii) [Reserved]

(3) For service information identified in this AD, contact Daher Aerospace Inc., Pompano Beach Airpark, 601 NE 10 Street, Pompano Beach, FL 33060; phone: (954) 893–1400; website: *https://www.tbm.aero.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA,

email: *fr.inspection@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on November 17, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–26964 Filed 12–13–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0797; Project Identifier MCAI–2021–00218–R; Amendment 39–21838; AD 2021–24–17]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Helicopters Deutschland GmbH Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters. This AD was prompted by reduced life limits being established for certain part-numbered tail rotor (TR) blades. This AD requires determining the total hours time-in-service (TIS) of certain part-numbered TR blades, establishing a life limit for certain part-numbered TR blades, removing from service any TR blade that has reached or exceeded its life limit, creating a component history card, re-identifying certain part-numbered TR blades, and removing any TR blade from service before reaching its retirement life. This AD also prohibits installing certain TR blades on certain model helicopters. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 18, 2022.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of January 18, 2022.

ADDRESSES: For service information identified in this final rule, contact Airbus Helicopters, 2701 North Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0797.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0797; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the European Union Aviation Safety Agency (EASA) AD, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7330; email *andrea.jimenez@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Airbus Helicopters Deutschland GmbH Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters, with TR blade part number L642A2002101, L642A2002103, L642A2002104, L642A2002111, or L642A2002112 installed. The NPRM published in the **Federal Register** on September 23, 2021 (86 FR 52856). In the NPRM, the FAA proposed to require within 350 hours TIS, determining the total hours TIS of certain part-numbered TR blades and removing from service certain part-numbered TR blades that have accumulated or exceeded 6,800 total hours TIS. The NPRM also proposed to require for certain part-numbered TR blades with less than 6,800 total hours TIS, creating a component history card or equivalent record to establish a life limit of 6,800 total hours TIS, and removing these TR blades from service before accumulating 6,800 total hours TIS. The NPRM proposed to require for certain model helicopters re-identifying certain part-numbered TR blades with new part numbers and removing those newly re-identified TR blades from service before exceeding 6,800 total hours TIS.

Additionally, the NPRM proposed to require for certain model helicopters with certain part-numbered TR blades installed that have been previously installed on certain model helicopters determining the total hours TIS of the TR blade in accordance with a method approved by the FAA or EASA. Finally, for certain model helicopters the NPRM proposed to prohibit installing certain part-numbered TR blades and for certain model helicopters the NPRM proposed to prohibit installing certain part-numbered TR blades that have exceeded or accumulated 500 total hours TIS while previously installed on certain model helicopters.

The NPRM was prompted by EASA AD 2021–0050, dated February 23, 2021 (EASA AD 2021–0050), issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Airbus Helicopters Deutschland GmbH (AHD), formerly Eurocopter Deutschland GmbH, Eurocopter España S.A., Model EC135 P1, EC135 P2, EC135 P2+, EC135 P3, EC135 T1, EC135 T2, EC135 T2+, EC135 T3, EC635 P2+, EC635 P3, EC635 T1, EC635 T2+, and EC635 T3 helicopters, all variants, and all serial numbers. EASA advises that a reduced life limit has been established for certain part-numbered TR blades due to higher loads experienced in service. This condition, if not addressed, could result in fatigue and failure of a TR blade and loss of control of the helicopter.

Accordingly, EASA AD 2021–0050 requires determining the total hours TIS for certain part-numbered TR blades, recalculating the TIS for affected parts, and implementing a reduced life limit. EASA AD 2021–0050 also prohibits installing certain part-numbered TR blades and TR head assemblies and provides conditions for re-installation of certain TR blades.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the costs.

Conclusion

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the

FAA about the unsafe condition described in its AD. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these helicopters. Except for minor editorial changes, including removing Model EC635T2+ from paragraph (g)(5) of the Required Actions, this AD is adopted as proposed in the NRPM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Airbus Helicopters Alert Service Bulletin ASB EC135H–04A–002 and Airbus Helicopters Alert Service Bulletin ASB EC135–04A–014, both Revision 1, and both dated December 21, 2020. This service information specifies procedures to determine the total hours TIS of certain TR blades and provides instructions to re-identify certain part-numbered TR blades.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Differences Between This AD and EASA AD 2021–0050

EASA AD 2021–0050 requires compliance using calendar time, whereas this AD requires compliance using hours TIS instead. EASA AD 2021–0050 applies to Model EC635 P2+, EC635 P3, EC635 T1, EC635 T2+, and EC635 T3 helicopters, which are not certificated by the FAA and are not included on the U.S. type certificate data sheet, except where the U.S. type certificate data sheet explains that the Model EC635 T2+ helicopter having serial number 0858 was converted from Model EC635 T2+ to Model EC135 T2+. This AD, therefore, does not include Model EC635 P2+, EC635 P3, EC635 T1, EC635 T2+, and EC635 T3 helicopters in the applicability. EASA AD 2021–0050 specifies contacting Airbus Helicopters Deutschland GmbH to determine the total hours TIS accumulated by certain TR blades whereas this AD requires determining the total hours TIS accumulated by the TR blade in accordance with a method approved by the FAA or EASA. EASA AD 2021–0050 prohibits installing certain part-numbered TR head assemblies as defined in its AD, whereas this AD does not contain this prohibition.

Costs of Compliance

The FAA estimates that this AD affects 341 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Determining the total hours TIS of each TR blade, updating the helicopter records and re-identifying each TR blade takes about 10 work-hours for each TR blade, for an estimated cost of $850 per TR blade.

Replacing each TR blade takes about 10 work-hours and parts cost about $4,400 for an estimated cost of $5,250 per TR blade replacement.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2021–24–17 Airbus Helicopters Deutschland GmbH: Amendment 39–21838; Docket No. FAA–2021–0797; Project Identifier MCAI–2021–00218–R.

(a) Effective Date

This airworthiness directive (AD) is effective January 18, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Helicopters Deutschland GmbH Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters, certificated in any category, with tail rotor (TR) blade part number (P/N) L642A2002101, L642A2002103, L642A2002104, L642A2002111, or L642A2002112 installed.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6410, Tail rotor blades.

(e) Unsafe Condition

This AD was prompted by a notification of certain parts needing a reduced life limit when installed on certain model helicopters. The FAA is issuing this AD to prevent certain part-numbered TR blades from remaining in service beyond their fatigue life. The unsafe condition, if not addressed, could result in fatigue and failure of a TR blade and loss of helicopter control.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

(1) For all model helicopters identified in paragraph (c) of this AD, within 350 hours time-in-service (TIS) after the effective date of this AD, determine the total hours TIS of each TR blade P/N L642A2002101 or P/N L642A2002111 in accordance with paragraph 3.B.2 of the Accomplishment Instructions of Airbus Helicopters Alert Service Bulletin ASB EC135H–04A–002, Revision 1, dated December 21, 2020 (ASB EC135H–04A–002) or paragraph 3.B.2 (version A) or 3.B.4 (version B) of the Accomplishment Instructions of Airbus Helicopters Alert Service Bulletin ASB EC135–04A–014, Revision 1, dated December 21, 2020 (ASB EC135–04A–014) as applicable to your model helicopter. Remove from service any TR

blade that has accumulated or exceeded 6,800 total hours TIS. For each TR blade that has accumulated less than 6,800 total hours TIS do the following:

(i) Create a component history card or equivalent record to establish a life limit of 6,800 total hours TIS.

(ii) Re-identify each TR blade P/N L642A2002101 as P/N L642A2002104 and re-identify each T/R blade P/N L642A2002111 as P/N L642A2002112 by following paragraph 3.B.5 of the Accomplishment Instructions of ASB EC135H–04A–002, or paragraph 3.B.7 of the Accomplishment Instructions of ASB EC135–04A–014 as applicable to your model helicopter.

(iii) Thereafter, remove from service any TR blade P/N L642A2002104 or P/N L642A2002112 before it accumulates 6,800 total hours TIS.

(2) For Model EC135P1, EC135P2, EC135P2+, EC135T1, EC135T2, and EC135T2+ helicopters with TR blade P/N L642A2002103 that has previously been installed on Model EC135P3 or EC135T3 helicopters, within 350 hours TIS after the effective date of this AD, determine the total hours TIS of the TR blade in accordance with a method approved by the Manager, General Aviation and Rotorcraft Section, International Validation Branch, FAA; or European Union Aviation Safety Agency (EASA); or Airbus Helicopters' EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) For Model EC135P3 and EC135T3 helicopters within 350 hours TIS after the effective date of this AD, remove from service any TR blade P/N L642A2002103 before exceeding 6,800 total hours TIS.

(4) For Model EC135P3 and EC135T3 helicopters, as of the effective date of this AD, do not install any TR blade P/N L642A2002101, P/N L642A2002103, or P/N L642A2002111 on any helicopter.

(5) For Model EC135P1, EC135P2, EC135P2+, EC135T1, EC135T2, and EC135T2+ helicopters, as of the effective date of this AD, do not install any TR blade P/N L642A2002101 or L642A2002111 that has accumulated or exceeded 500 total hours TIS while installed on a Model EC135P3 or EC135T3 helicopter.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (i)(1) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(i) Related Information

(1) For more information about this AD, contact Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7330; email *andrea.jimenez@faa.gov.*

(2) Service information identified in this AD, is available at the contact information specified in paragraphs (j)(3) and (4) of this AD.

(3) The subject of this AD is addressed in European Union Aviation Safety Agency (EASA) AD 2021–0050, dated February 23, 2021. You may view the EASA AD at *https://www.regulations.gov* in Docket No. FAA–2021–0797.

(j) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Airbus Helicopters Alert Service Bulletin ASB EC135H–04A–002, Revision 1, dated December 21, 2020.

(ii) Airbus Helicopters Alert Service Bulletin ASB EC135–04A–014, Revision 1, dated December 21, 2020.

(3) For service information identified in this AD, contact Airbus Helicopters, 2701 North Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on November 17, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–26975 Filed 12–13–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0830; Project Identifier AD–2020–00257–R; Amendment 39–21836; AD 2021–24–15]

RIN 2120–AA64

Airworthiness Directives; Bell Textron Canada Limited Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Bell Textron Canada Limited Model 206L–1, 206L–3, and 206L–4 helicopters with certain Air Comm Corporation air conditioning systems installed. This AD was prompted by reports of damage to the drive ring spline teeth and the mating spline teeth. This AD requires visually inspecting the drive ring spline teeth and the mating area spline teeth on the oil cooler blower shaft for signs of deformation and fretting and depending on the results of the inspection, removing certain parts from service. This AD also requires reinstalling certain parts, applying torque, and aligning certain bolt holes. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 18, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of January 18, 2022.

ADDRESSES: For service information identified in this final rule, contact Air Comm Corporation, 1575 Westminster, CO 80234; telephone (303) 440–4075; or at *https://www.aircommcorp.com.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0830.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0830; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any referenced service

information, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Matthew Bryant, Aerospace Engineer, Denver ACO Branch, FAA, 26805 East 68th Avenue, Denver, CO 80249; telephone (303) 342–1080; email *9-Denver-Aircraft-Cert@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Bell Textron Canada Limited Model 206L–1, Model 206L–3, and Model 206L–4 helicopters with certain Air Comm Corporation air conditioning systems installed. The NPRM published in the **Federal Register** on September 24, 2021 (86 FR 53015). In the NPRM, the FAA proposed to require within 300 hours time-in-service (TIS), and thereafter at intervals not to exceed 300 hours TIS, gaining access to the drive ring spline teeth and the mating area spline teeth on the oil cooler blower shaft, repetitively inspecting the drive ring spline teeth and the mating spline teeth on the tail rotor drive's oil cooler blower shaft for deformation and fretting, and depending on the results of each inspection, removing certain parts from service before further flight. The NPRM also proposed to require reinstalling certain parts, and if required, reinstalling the drive pulley by torqueing and aligning the drive pulley bolt holes.

The FAA issued Special Airworthiness Information Bulletin SW–19–05 on April 4, 2019 (SAIB SW–19–05), to alert owners and operators of Bell Textron Canada Limited Model 206L–1, 206L–3, and 206L–4 helicopters with Air Comm Corporation's Supplemental Type Certificate (STC) SH2750NM installed. SAIB SW–19–05 was prompted by reports of the air conditioner pulley's locking system, which is installed on the oil cooler drive shaft's splined quill, causing excessive spline tooth wear to the drive ring spline teeth and the mating spline teeth on the oil cooler blower shaft. SAIB SW–19–05 recommends following the inspection instructions of certain Air Comm Corporation service information and routinely inspecting the air conditioner pulley lock ring.

At the time SAIB SW–19–05 was issued, the airworthiness concern was not determined to be an unsafe condition that would warrant AD action under 14 CFR part 39. However, subsequent investigations were not able to determine whether the limited damaged observed on several oil cooler blower shafts would remain localized or progress to a point where the shaft is no longer safe for continued use. The FAA also later determined that operators may have difficulty aligning the air conditioning system's drive ring holes with the air conditioning condenser drive pulley without leaving the condenser drive pulley under-torqued. This condition, if not addressed, could result in a failure of the oil cooler blower shaft, which could lead to loss of tail rotor authority and subsequent loss of helicopter control.

Accordingly, the FAA is issuing this AD for Bell Textron Canada Limited Model 206L–1 and 206L–3 helicopters with Bell Model 206L1/L3 Service Instruction for Increased Gross Weight Upgrade Kit BHT–206–SI–2052, Revision 1, dated October 14, 2010, installed and Bell Model 206L–4 helicopters equipped with one of the following Air Comm Corporation STC SH2750NM air conditioning systems part number; 206EC–204–1, 206EC–204–2, 206EC–208–1, 206EC–208–2, 206EC–210–1, 206EC–210–2, 206EC–210–3, 206EC–212–3 or 206EC–212–4. Helicopters with a 206L–1+ designation are Model 206L–1 helicopters and helicopters with a 206L–3+ designation are Model 206L–3 helicopters.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the costs.

Conclusion

The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed except for minor editorial changes. Accordingly, the FAA is issuing this AD to address the unsafe condition on these helicopters.

Related Service Information Under 1 CFR Part 51

The FAA reviewed ACC Air Comm Corporation Service Bulletin SB 206EC–091119, Rev B, dated May 26, 2021 (SB 206EC–091119 Rev B), which specifies procedures for visually inspecting the drive ring spline teeth and the mating spline teeth on the tail rotor drive's oil cooler blower shaft for deformation or fretting.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Differences Between This AD and the Service Bulletin

SB 206EC–091119 Rev B requires inspecting the air conditioning compressor drive belt tension and the general condition of the drive belt, drive pulley, and surrounding components, whereas this AD does not. SB 206EC–091119 Rev B requires reporting any deformation or fretting to Air Comm Corporation Service Department, whereas this AD does not. SB 206EC–091119 Rev B provides an option to deactivate the air conditioning system if deformation or fretting is found on the drive ring or the oil cooler blower shaft assembly, whereas this AD requires removing these parts from service instead.

Costs of Compliance

The FAA estimates that this AD affects up to 100 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Removing the tail rotor drive system's forward short shaft, spline adaptor, and drive ring and visually inspecting the drive ring spline teeth and the mating area spline teeth take about 1 work-hour for an estimated cost of $85 per helicopter and $8,500 for the U.S. fleet per inspection cycle.

Replacing the drive ring takes about 3 work-hours and parts cost about $300 for an estimated cost of $555 per replacement.

Replacing the oil cooler blower assembly takes about 3 work-hours and parts cost about $2,720 for an estimated cost of $2,975 per replacement.

Aligning each bolt hole and re-torqueing the drive pulley take about 0.5 work-hours for an estimated cost of $43 per helicopter.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and

procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2021–24–15 Bell Textron Canada Limited: Amendment 39–21836; Docket No. FAA–2021–0830; Project Identifier AD–2020–00257–R.

(a) Effective Date

This airworthiness directive (AD) is effective January 18, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Bell Textron Canada Limited helicopters identified in paragraphs (c)(1) and (2) of this AD:

(1) Model 206L–1 and Model 206L–3 helicopters, certificated in any category, with Bell Model 206L1/L3 Service Instruction for Increased Gross Weight Upgrade Kit BHT–206–SI–2052, Revision 1, dated October 14, 2010, installed and that are equipped with one of the following Air Comm Corporation Supplemental Type Certificate (STC) SH2750NM air conditioning systems part number (P/N) 206EC–204–1, 206EC–204–2, 206EC–208–1, 206EC–208–2, 206EC–210–1, 206EC–210–2, 206EC–210–3, 206EC–212–3, or 206EC–212–4; and

Note 1 to paragraph (c)(1) of this AD: Helicopters with a 206L–1+ designation are Model 206L–1 helicopters and helicopters with a 206L–3+ designation are Model 206L–3 helicopters.

(2) Model 206 L–4 helicopters, certificated in any category, and that are equipped with one of the following Air Comm Corporation STC SH2750NM air conditioning systems P/N 206EC–204–1, 206EC–204–2, 206EC–208–1, 206EC–208–2, 206EC–210–1, 206EC–210–2, 206EC–210–3, 206EC–212–3, or 206EC–212–4.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6510, Tail Rotor Drive Shaft.

(e) Unsafe Condition

This AD was prompted by reports of deformation or fretting of the spline teeth on the air conditioning system drive ring and on the oil cooler blower shaft. The FAA is issuing this AD to detect deformation and fretting. The unsafe condition, if not addressed, could result in a failure of the oil cooler blower shaft, which could lead to loss of tail rotor authority and subsequent loss of helicopter control.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

Within 300 hours time-in-service (TIS) after the effective date of this AD, and thereafter at intervals not to exceed 300 hours TIS:

(1) Gain access to the drive ring spline teeth and the mating area spline teeth on the oil cooler blower shaft by removing the tail rotor drive system's forward short shaft and spline adaptor, and the air conditioner system's drive ring. Refer to Figure 1 of ACC Air Comm Corporation Service Bulletin SB 206EC–091119, Rev B, dated May 26, 2021 for a depiction of each component's location.

(2) Visually inspect the drive ring spline teeth and the mating area spline teeth on the oil cooler blower shaft for deformation and fretting.

(i) If there is deformation or fretting on the drive ring spline teeth, before further flight, remove the drive ring from service and replace it with an airworthy part.

(ii) If there is deformation or fretting on the mating area spline teeth of the oil cooler blower shaft, before further flight, remove the oil cooler blower assembly from service and replace with an airworthy part.

(3) Reinstall the drive ring, spline adapter, and the forward short shaft. If the compressor drive pulley was removed, torque the drive pulley to 200–300 in-lbs, increasing torque in this range to align the four threaded holes with the through holes in the drive ring. Do not back-off torque to align the bolt holes.

(h) Special Flight Permits

Special flight permits are prohibited.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Denver ACO, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the Denver ACO, send it to the attention of the person identified in paragraph (j)(1) of this AD. Information may be emailed to: *9-Denver-Aircraft-Cert@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Related Information

(1) For more information about this AD, contact Matthew Bryant, Aerospace Engineer, Denver ACO Branch, FAA, 26805 East 68th Avenue, Denver, CO 80249; telephone (303) 342–1092; email *9-Denver-Aircraft-Cert@faa.gov.*

(2) Service information identified in this AD, is available at the contact information specified in paragraphs (k)(3) and (4) of this AD.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) ACC Air Comm Corporation Service Bulletin SB 206EC–091119, Rev B, dated May 26, 2021.

(ii) [Reserved]

(3) For service information identified in this AD, contact Air Comm Corporation, 1575 W 124th Ave. #210, Westminster, CO 80234; telephone: (303) 440–4075; email *service@aircommcorp.com.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on November 19, 2021.

Ross Landes,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–27012 Filed 12–13–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–1061; Project Identifier AD–2021–01192–E; Amendment 39–21853; AD 2021–23–51]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain General Electric Company (GE) CF34–8C and CF34–8E model turbofan engines. This AD was prompted by an in-flight shutdown of an engine and subsequent investigation by the manufacturer that revealed a broken variable geometry (VG) actuator rod end caused by corrosion and seizure of the rod end bearing. This AD requires performing an inspection of the master compressor VG actuator and slave compressor VG actuator and, depending on the results of the inspection, replacement of the part with a part eligible for installation. This AD also requires reporting the results of the inspection to GE. The FAA previously sent an emergency AD to all known U.S. owners and operators of these GE CF34–8C and CF34–8E model turbofan engines and is now issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective December 29, 2021. Emergency AD 2021–23–51, issued on November 4, 2021, which contained the requirements of this amendment, was effective with actual notice.

The Director of the Federal Register approved the incorporation by reference of certain publications identified in this AD as of December 29, 2021.

The FAA must receive comments on this AD by January 28, 2022.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552–3272; email: *aviation.fleetsupport@ge.com;* website: *https://www.ge.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1061.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1061; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Scott M. Stevenson, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7132; fax: (781) 238–7199; email: *scott.m.stevenson@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

On November 4, 2021, the FAA issued Emergency AD 2021–23–51 (the emergency AD), which requires performing an inspection of the master compressor VG actuator and slave compressor VG actuator and, depending on the results of the inspection, replacement of the part with a part eligible for installation. The emergency AD also requires reporting the results of the inspection to GE. The FAA sent the emergency AD to all known U.S. owners and operators of these engines. This action was prompted by an event on August 11, 2021, in which a Bombardier CRJ1000 airplane, powered by GE CF34–8C5 model engines, experienced an in-flight engine shutdown that resulted in a diversion. The manufacturer's investigation found that these engines were parked outdoors for extended lengths of time within 10 miles (16 km) from a saltwater coastline. These conditions caused corrosion to develop on the compressor VG actuator rod end bearing, which restricted the motion in the bearing leading to an elevated stress in the rod end. Subsequently, the higher stress cracked the rod end which eventually fractured. This condition, if not addressed, could result in failure of one or more engines, loss of engine thrust control, and reduced control of the airplane.

FAA's Determination

The FAA is issuing this AD because the agency evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Related Service Information Under 1 CFR Part 51

The FAA reviewed GE CF34–8C Service Bulletin (SB) 75–0028 R00 and GE CF34–8E SB 75–0023 R00, both dated November 2, 2021. These SBs specify procedures for performing a one-time inspection of the master compressor VG actuator and slave compressor VG actuator, differentiated by engine model, to identify possible rod end corrosion or seizure. These SBs also instruct operators to report the inspection results to GE. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

AD Requirements

This AD requires performing an inspection of the master compressor VG actuator and slave compressor VG actuator and, depending on the results of the inspection, replacement of the part with a part eligible for installation. This AD also requires reporting the results of the inspection to GE.

Interim Action

The FAA considers this AD to be an interim action. The FAA anticipates that further AD action will follow.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable,

unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that required the immediate adoption of Emergency AD 2021–23–51, issued on November 4, 2021, to all known U.S. owners and operators of these engines. The FAA found that the risk to the flying public justified waiving notice and comment prior to adoption of this rule. On August 11, 2021, a Bombardier CRJ1000 airplane, powered by GE CF34–8C5 model engines experienced an in-flight engine shutdown caused by compressor VG actuator rod end failure due to corrosion and seizure. This unsafe condition, caused by corrosion and seizure of the compressor VG actuator rod end bearing, may result in failure of one or more engines, loss of engine thrust control, and reduced control of the airplane.

The FAA considers inspection of the compressor VG actuator rod end bearings to be an urgent safety issue. Inspection of the compressor VG actuator rod end bearings must be accomplished before accumulating 30 flight hours or within 5 calendar days on one engine installed on an airplane. The other engine on the same airplane that has already had an engine inspected must be inspected before accumulating 350 FHs or within 60 calendar days. These conditions still exist, therefore, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forego notice and comment.

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–1061; Project Identifier AD–2021–01192–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Scott M. Stevenson, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because FAA has determined that it has good cause to adopt this rule without prior notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 2 engines installed on airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect master compressor VG actuator and slave compressor VG actuator.	2 work-hours × $85 per hour = $170	$0	$170	$340
Report results of inspection	1 work-hour × $85 per hour = $85	0	85	170

The FAA estimates the following costs to do any necessary replacement that would be required based on the results of the inspection. The agency has no way of determining the number of aircraft that might need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace master compressor VG actuator and slave compressor VG actuator.	2 work-hours × $85 per hour = $170	$18,890	$19,060

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid

OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2021–23–51 General Electric Company: Amendment 39–21853; Docket No. FAA–2021–1061; Project Identifier AD–2021–01192–E.

(a) Effective Date

The FAA issued emergency airworthiness directive (AD) 2021–23–51, on November 4, 2021 directly to affected owners and operators. As a result of such actual notice, that AD was effective for those owners and operators on the date it was provided. This AD contains the same requirements as that emergency AD and, for those who did not receive actual notice, is effective on December 29, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to General Electric Company (GE) CF34–8C1, CF34–8C5, CF34–8C5A1, CF34–8C5A2, CF34–8C5A3, CF34–8C5B1, CF34–8E2, CF34–8E2A1, CF34–8E5, CF34–8E5A1, CF34–8E5A2, CF34–8E6, and CF34–8E6A1 model turbofan engines installed on an airplane that has accumulated more than 250 parked days outdoors in the last 24 months within 10 miles (16 km) from a saltwater coastline.

Note 1 to paragraph (c): A ''parked day'' is 24 consecutive hours with no engine operation.

(d) Subject

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compression Section.

(e) Unsafe Condition

This AD was prompted by an in-flight shutdown of an engine and subsequent investigation by the manufacturer that revealed a broken variable geometry (VG) actuator rod end caused by corrosion and seizure of the rod end bearing. The FAA is issuing this AD to detect corrosion and seizure of the rod end bearing. The unsafe condition, if not addressed, could result in failure of one or more engines, loss of engine thrust control, and reduced control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

(1) On one engine installed on an airplane, before accumulating 30 flight hours (FHs) or within 5 calendar days, whichever occurs first after the effective date of this AD, perform an inspection of the master compressor VG actuator, significant item number (SIN) 30401, and slave compressor VG actuator, SIN 30402, in accordance with the Accomplishment Instructions, paragraphs 3.A.(1) and (2), of GE CF34–8C Service Bulletin (SB) 75–0028 R00 (GE CF34–8C SB 75–0028) or GE CF34–8E SB 75–0023 R00 (GE CF34–8E SB 75–0023), both dated November 2, 2021, as applicable to the engine model.

(2) On the other engine installed on the airplane, not inspected as required by paragraph (g)(1) of this AD, before accumulating 350 FHs or within 60 calendar days, whichever occurs first after the effective date of this AD, perform an inspection of the master compressor VG actuator, SIN 30401, and slave compressor VG actuator, SIN 30402, in accordance with the Accomplishment Instructions, paragraphs 3.A.(1) and (2), of GE CF34–8C SB 75–0028 or GE CF34–8E SB 75–0023, as applicable to the engine model.

(3) For engines not in service, before further flight, perform an inspection of the master compressor VG actuator, SIN 30401, and slave compressor VG actuator, SIN 30402, in accordance with the Accomplishment Instructions, paragraphs 3.A.(1) and (2), of GE CF34–8C SB 75–0028 or GE CF34–8E SB 75–0023, as applicable to the engine model.

(4) If the master compressor VG actuator, SIN 30401, or the slave compressor VG actuator, SIN 30402, does not pass any inspection required by paragraphs (g)(1) through (3) of this AD, before further flight, remove the part and replace with a part eligible for installation.

(h) Reporting Requirements

Within 10 days after performing the inspections required by paragraphs (g)(1) through (3) of this AD, in accordance with paragraphs 3.A.(1) and (2), of GE CF34–8C SB 75–0028 or GE CF34–8E SB 75–0023, send your inspection report form, pictures, or report findings to GE at *aviation.fleetsupport@ge.com.*

(i) Special Flight Permit

Special flight permits are prohibited.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office,

send it to the attention of the person identified paragraph (k) of this AD. Information may be emailed to: *ANE-AD-AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(k) Related Information

For more information about this AD, contact Scott M. Stevenson, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7132; fax: (781) 238–7199; email: *scott.m.stevenson@faa.gov.*

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) GE CF34–8C Service Bulletin (SB) 75–0028 R00, dated November 2, 2021.

(ii) GE CF34–8E SB 75–0023 R00, dated November 2, 2021.

(3) For GE service information identified in this AD, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552–3272; email: *aviation.fleetsupport@ge.com;* website: *https://www.ge.com.*

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on December 1, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–27045 Filed 12–9–21; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0283; Project Identifier 2018–SW–045–AD; Amendment 39–21821; AD 2021–23–22]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.a. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Leonardo S.p.a. Model AB139 and AW139 helicopters. This AD was prompted by reports of failed main rotor (MR) dampers. This AD requires various inspections of certain MR dampers, as specified in a European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 18, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 18, 2022.

ADDRESSES: For EASA material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find the EASA material on the EASA website at *https://ad.easa.europa.eu.* For Leonardo Helicopters service information identified in this final rule, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://customerportal.leonardocompany.com/en-US/.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. Service information that is incorporated by reference is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0283.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0283; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the EASA AD, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Matt Fuller, AD Program Manager, General Aviation & Rotorcraft Unit, Airworthiness Products Section, Operational Safety Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *matthew.fuller@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0112R1, dated June 4, 2018 (EASA AD 2018–0112R1), which is the most recent of a series of ADs issued by EASA, to correct an unsafe condition for certain Leonardo S.p.A. Helicopters (formerly Finmeccanica S.p.A., Helicopter Division (FHD), AgustaWestland S.p.A., Agusta S.p.A.), AgustaWestland Philadelphia Corporation (formerly Agusta Aerospace Corporation) Model AB139 and AW139 helicopters.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain serial-numbered Leonardo S.p.A. Model AB139 and AW139 helicopters with an MR damper part number (P/N) 3G6220V01351, 3G6220V01352, or 3G6220V01353 installed. The NPRM published in the **Federal Register** on March 31, 2020 (85 FR 17788). The NPRM was prompted by reports of failed MR dampers. The NPRM proposed to require, for an affected helicopter with MR damper P/N 3G6220V01351, 3G6220V01352, or 3G6220V01353 installed, reducing the installation torque of each hub attachment bolt for each MR damper. For an affected helicopter with MR damper P/N 3G6220V01351 or 3G6220V01352 installed, the NPRM proposed to require: Repetitively inspecting the MR damper rod end (rod end) and MR damper body end (body end) for a crack; dye penetrant inspecting or eddy current inspecting certain rod and body ends for a crack; repetitively inspecting the rod and body end bearings for rotation in the damper seat and for misaligned slippage marks; repetitively inspecting the rod end broached ring nut; and repetitively inspecting the bearing friction torque value of the body and rod ends, and the MR damper anti-rotation block. Depending on the results of the various inspections, the NPRM proposed to require removing a part from service or replacing a part. For an affected helicopter with MR damper P/N 3G6220V01351 or 3G6220V01352 installed, the NPRM also proposed to require inspecting each rod end to determine if special washer P/N 3G6220A05052 is installed, and

depending on the results, aligning the rod ends and broached rings, replacing any broached ring that cannot be aligned, inspecting the broached rings for wear and damage, and replacing the broached ring and installing a special washer. Lastly, the NPRM proposed to require installing MR damper P/N 3G220V01353, prohibit installing MR damper P/N 3G6220V01351 and P/N 3G6220V01352 on any helicopter, and allow the installation of MR damper P/N 3G220V01353 to constitute terminating action for all of the proposed repetitive required actions.

The FAA issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to Leonardo S.p.a. Model AB139 and AW139 helicopters as identified in EASA AD 2018–0112R1. The SNPRM published in the **Federal Register** on September 14, 2021 (86 FR 51022). The FAA issued the SNPRM to add an action required by EASA AD 2018–0112R1 that was inadvertently omitted in the NPRM, correct thresholds for different actions proposed in the NPRM, and add the option to accomplish an eddy current inspection for some inspections. The SNPRM also utilized the FAA's new practice of proposing to incorporate EASA AD 2018–0112R1 by reference.

The FAA is issuing this AD to address a crack in an MR damper, which could result in seizure of the MR damper, detachment of the MR damper in-flight, and subsequent loss of control of the helicopter. See EASA AD 2018–0112R1 for additional background information.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the SNPRM or on the determination of the costs.

Conclusion

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these helicopters.

Related Service Information Under 1 CFR Part 51

EASA AD 2018–0112R1 requires reducing the installation torque of the bolts affixing each affected MR damper to the MR hub. For certain affected MR dampers, EASA AD 2018–0112R1 requires a one-time dye penetrant inspection of the rod and body ends, and a repetitive detailed visual inspection of the rod and body ends. EASA AD 2018–0112R1 allows an eddy current inspection as an alternative to those inspections. For certain affected MR dampers, EASA AD 2018–0112R1 also requires repetitively inspecting the rod and body end bearings for rotation, visually inspecting the rod end broached ring nut, accomplishing a bearing friction inspection of the body and rod end bearings, and a detailed inspection of the anti-rotation block. EASA AD 2018–0112R1 also requires a one-time visual inspection of certain affected MR damper rod end installations and a torque check of the MR damper broached ring nut. For certain affected MR dampers, EASA AD 2018–0112R1 requires replacing any special washer P/N 3G6220A05051 with a new washer P/N 3G6220A05052. If there is a crack or damage detected in any inspection, EASA AD 2018–0112R1 requires contacting Leonardo and, if the discrepancy is confirmed, replacing the MR damper. EASA AD 2018–0112R1 also requires corrective actions if any discrepancy is detected in the inspections for rotation, friction, and torque. EASA AD 2018–0112R1 allows installing MR damper P/N 3G6220V01353 on a helicopter, provided that it is installed using the correct torque values. Lastly, EASA AD 2018–0112R1 prohibits installing MR damper P/N 3G6220V01351 and P/N 3G6220V01352 on any helicopter.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Differences Between This AD and the EASA AD

Where EASA AD 2018–0112R1 requires the compliance time of after the last flight (ALF) of the day inspection, this AD requires the compliance time of before the first flight of the day. Some compliance times in EASA AD 2018–0112R1 are on condition of part removal or replacement, whereas this AD does not include those compliance times. EASA AD 2018–0112R1 requires a torque check of the MR damper broached ring nut, whereas this AD requires a torque inspection instead to clarify that the action must be accomplished by a mechanic that meets the requirements of 14 CFR part 65 subpart D. EASA AD 2018–0112R1 requires making sure that there are no scratches or dents on the rod end, however it does not state corrective action for this requirement; this AD requires removing the rod end from service if there is a scratch or dent on the rod end. Where EASA AD 2018–0112R1 requires contacting Leonardo and replacing the MR damper with a serviceable part, this AD requires replacing or removing parts from service instead. Where EASA AD 2018–0112R1 requires accomplishing applicable corrective action(s) as specified in, and in accordance with, the instructions in service information, this AD requires removing parts from service for some of the corrective actions instead. Where EASA AD 2018–0112R1 requires a one-time dye penetrant inspection of certain rod ends when installed, this AD does not. Instead, this AD prohibits installing certain rod ends that are not marked with a black dot and therefore have not been inspected.

Costs of Compliance

The FAA estimates that this AD affects 126 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Performing the MR damper inspections takes about 24 work-hours, for an estimated cost of $2,040 per helicopter and $257,040 for the U.S. fleet, per inspection cycle.

Replacing a rod end takes about 3 work-hours and parts cost about $500, for an estimated cost of $755 per rod end. Replacing a broached ring and broached ring nut takes about 3 work-hours and parts cost about $125, for an estimated cost of $380 per broached ring and broached ring nut. Replacing an anti-rotation block takes about 3 work-hours and parts cost about $50, for an estimated cost of $305 per anti-rotation block. Replacing an MR damper takes about 2 work-hours and parts cost about $18,000, for an estimated cost of $18,170 per MR damper.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds

necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2021–23–22 Leonardo S.p.a.: Amendment 39–21821; Docket No. FAA–2020–0283; Project Identifier 2018–SW–045–AD.

(a) Effective Date

This airworthiness directive (AD) is effective January 18, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Leonardo S.p.a. Model AB139 and AW139 helicopters, certificated in any category, as identified in European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD 2018–0112R1, dated June 4, 2018 (EASA AD 2018–0112R1).

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6200, Main Rotor System.

(e) Unsafe Condition

This AD was prompted by reports of failed main rotor (MR) dampers. The FAA is issuing this AD to address a crack in an MR damper. The unsafe condition, if not addressed, could result in seizure of the MR damper, detachment of the MR damper in-flight, and subsequent loss of control of the helicopter.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2018–0112R1.

(h) Exceptions to EASA AD 2018–0112R1

(1) Where EASA AD 2018–0112R1 requires compliance in terms of flight hours (FH), this AD requires using hours time-in-service (TIS).

(2) Where EASA AD 2018–0112R1 refers to FH accumulated by a part since new (first installation on a helicopter) or since overhaul, this AD requires using total hours TIS.

(3) Where EASA AD 2018–0112R1 refers to its effective date; May 10, 2016 (the effective date of EASA AD 2016–0087, dated May 3, 2016); July 28, 2016 (the effective date of EASA AD 2016–0140, dated July 14, 2016); or September 11, 2017 (the effective date of EASA AD 2017–0160, dated August 28, 2017), this AD requires using the effective date of this AD.

(4) Where EASA AD 2018–0112R1 requires the compliance time of during an ''after the last flight (ALF) of the day inspection,'' this AD requires the compliance time of before the first flight of the day.

(5) Where the service information referenced in EASA AD 2018–0112R1 specifies using a magnifying glass, this AD requires using a 5X or higher power magnifying glass.

(6) Where the service information referenced in EASA AD 2018–0112R1 specifies discarding parts, this AD requires removing those parts from service.

(7) Where paragraph (2) of EASA AD 2018–0112R1 requires compliance within 30 FH after 10 May 2016 (the effective date of EASA AD 2016–0087, dated May 3, 2016), or at the first MR damper removal, whichever occurs first, for a MR damper that has accumulated 300 or more FH, this AD requires compliance within 30 hours TIS after the effective date of this AD for a MR damper that has accumulated 300 or more total hours TIS.

(8) This AD does not require the actions required by paragraph (3) of EASA AD 2018–0112R1.

(9) Where paragraph (8) of EASA AD 2018–0112R1 refers to having a serial number (S/N) specified in Part V of FHD BT 139–450, this AD requires the actions of that paragraph for helicopters with an MR damper part number (P/N) 3G6220V01351 or 3G6220V01352 with an S/N up to MCR8086 inclusive, installed, that has accumulated less than 600 total hours TIS.

(10) Where paragraph (10) of EASA AD 2018–0112R1 refers to having an S/N specified in in Part VII of FHD BT 139–450, this AD requires the actions of that paragraph for helicopters with:

(i) MR damper P/N 3G6220V01351 or 3G6220V01352 with an S/N up to MCR8764 inclusive, and with rod end P/N M006–01H004–041, –045, or –053, installed, except MR dampers confirmed of having 60–80 Nm applied and MR dampers marked with ''BT 139–446 Part II'' or ''BT 139–446 Part III'' on the logcard; or

(ii) MR damper P/N 3G6220V01351 or 3G6220V01352 that has had the damper rod end assembly removed before the issuance of ''BT 139–446'' installed, even if it has an S/N higher than MCR8764 or it has been confirmed of having 60–80 Nm applied.

Note 1 to paragraph (h)(10): MR dampers confirmed of having 60–80 Nm applied are listed in Table 1 (two pages) of Annex A, of Leonardo Helicopters Alert Service Bulletin No. 139–450, Revision D, dated May 28, 2019.

(11) Where paragraph (10) of EASA AD 2018–0112R1 requires a torque check, this AD requires a torque inspection.

(12) Where the service information referenced in paragraph (10) of EASA AD 2018–0112R1 specifies making sure that there are not scratches or dents on the rod end, this AD requires, before further flight, removing the rod end from service if there is a scratch or dent on the rod end.

(13) Where paragraph (12) of EASA AD 2018–0112R1 requires contacting Leonardo and replacing the MR damper with a serviceable part, this AD does not. This AD requires the following:

(i) If there is a crack in an MR damper body end, before further flight, replace the MR damper.

(ii) If there is a crack in an MR damper rod end, before further flight, remove the MR damper rod end from service.

(iii) If there is damage in any teeth of a rod end broached ring nut or damper piston slot, or if the engagement or alignment is not correct, before further flight, remove the rod end broached ring nut from service.

(14) Paragraph (13) of EASA AD 2018–0112R1 requires accomplishing the applicable corrective action(s) ''as specified in, and in accordance with, the instructions of FHD BT 139–450 or FHD BT 139–452, as applicable,'' except where:

(i) If there is any bearing seat rotation or misaligned slippage mark in the MR damper rod end, this AD requires, before further flight, removing the MR damper rod end from service.

(ii) If the MR damper rod end torque value is more than 30.0 Nm (265.5 in lb), this AD requires, before further flight, removing the MR damper rod end from service.

(iii) If any MR damper anti-rotation block dimension measurement exceeds allowable limits, this AD requires, before further flight, removing the anti-rotation block from service.

(15) This AD does not mandate compliance with the ''Remarks'' section of EASA AD 2018–0112R1.

(i) Parts Prohibition

As of the effective date of this AD, do not install an MR damper rod end P/N M006–01H004–041, M006–01H004–045, or M006–01H004–053 on any helicopter, unless it is marked with a black dot indicating that it has passed inspections specified by Leonardo Helicopters BT 139–450.

(j) No Reporting Requirement

Although the service information referenced in EASA AD 2018–0112R1 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (l)(1) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(l) Related Information

(1) For more information about this AD, contact Matt Fuller, AD Program Manager, General Aviation & Rotorcraft Unit, Airworthiness Products Section, Operational Safety Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *matthew.fuller@faa.gov.*

(2) Leonardo Helicopters Alert Service Bulletin No. 139–450, Revision D, dated May 28, 2019, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://customerportal.leonardocompany.com/en-US/.* You may view this referenced service information at the contact information specified in paragraph (m)(4) of this AD.

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD 2018–0112R1, dated June 4, 2018.

(ii) [Reserved]

(3) For EASA AD 2018–0112R1, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find the EASA material on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. This material may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0283.

(5) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fr.inspection@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on November 8, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–26973 Filed 12–13–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0911]

RIN 1625–AA11

Safety Zone; Oil Pipeline Repairs; San Pedro Bay, CA

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the oil pipeline repair operations in the vicinity of a damaged pipeline, off the coast of Orange County and near San Pedro Bay, CA. The safety zone is necessary to reduce significant hazards to vessels, the harbor, and the public during ongoing pipeline repair and oil recovery operations. Entry of persons or vessels into this temporary safety zone is prohibited unless specifically authorized by the Captain of the Port, Los Angeles-Long Beach, or her designated representative.

DATES: This rule is effective without actual notice from December 14, 2021, until January 17, 2022. For purposes of enforcement, actual notice will be used from December 9, 2021, through December 14, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0911 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LCDR Maria Wiener, Waterways Management, U.S. Coast Guard Sector Los Angeles-Long Beach; telephone (310) 357–1603, email *Maria.C.Wiener@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule to ensure the safety of response personnel and mariners during repairs of the damaged pipeline, as well as the potential oil recovery of said pipeline. It is impracticable to publish an NPRM, because we must establish this safety zone by December 9, 2021, due to immediate action needed to minimize potential danger to the public during oil recovery operations for the discharge of oil from pipeline.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to respond to the potential safety hazards associated with the pipeline repair operations for the damaged pipeline.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port (COTP), Los

Angeles-Long Beach has determined that potential hazards associated with the pipeline repair and potential oil recovery operations in the vicinity of the damaged pipeline will be a safety concern for anyone within the following coordinates: 33°39.320′ N, 118°06.851′ W; 33°39.141′ N, 118°06.247′ W; 33°38.632′ N, 118°06.453′ W; 33°38.809′ N, 118°07.064′ W. This rule is necessary to safeguard the public during repair operations in response to an emergency situation; it would be impracticable for the Coast Guard to provide a public comment period on the rule because the response and repair efforts are ongoing.

IV. Discussion of the Rule

This rule establishes a safety zone effective from December 9, 2021, until January 17, 2022. The safety zone will encompass all navigable waters from the surface to the sea floor in an area bound by the following coordinates: 33°39.320′ N, 118°06.851′ W; 33°39.141′ N, 118°06.247′ W; 33°38.632′ N, 118°06.453′ W; 33°38.809′ N, 118°07.064′ W. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive order.

This regulatory action determination is based on the size, location, and duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone, which will impact a small designated area of Newport Beach in the vicinity of the repair operations. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule will allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone effective on December 9, 2021 until January 17, 2022, within the following coordinates: 33°39.320′ N, 118°06.851′ W; 33°39.141′ N, 118°06.247′ W; 33°38.632′ N, 118°06.453′ W; 33°38.809′ N, 118°07.064′ W. It is categorically excluded from further review under paragraph L60(c) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without

jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

■ 2. Add § 165.T11–086 to read as follows:

§ 165.T11–086 Safety Zone; Oil Pipeline Repairs, San Pedro Bay, CA.

(a) *Location.* The safety zone encompasses all navigable waters from the surface to the sea floor in an area of the following coordinates: 33°39.320′ N, 118°06.851′ W; 33°39.141′ N, 118°06.247′ W; 33°38.632′ N, 118°06.453′ W; 33°38.809′ N, 118°07.064′ W.

(b) *Definitions.* For the purposes of this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Los Angeles-Long Beach (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in § 165.23, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, hail Coast Guard Sector Los Angeles-Long Beach on VHF–FM Channel 16 or call the 24-hour Command Center at (310) 521–3801. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from December 9, 2021, until January 17, 2022, between 12:00 a.m. and 11:59 p.m. each day, or as announced via local Broadcast Notice to Mariners.

Dated: December 8, 2021.

R.E. Ore,

Captain, U.S. Coast Guard, Captain of the Port, Los Angeles-Long Beach.

[FR Doc. 2021–26982 Filed 12–13–21; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 20

International Competitive Services Product and Price Changes Correction

AGENCY: Postal Service™.

ACTION: Final rule; correction.

SUMMARY: The Postal Service published a final notice in the **Federal Register**, on November 30, 2021, regarding the revisions to *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM®), to reflect the prices, product features, and classification changes to Competitive Services and other minor changes, as established by the Governors of the Postal Service effective January 9, 2022. That document contained an error in the Certificate of Mailing Individual Pieces chart in that it incorrectly listed the firm mailing sheet (PS Form 3665), per piece (minimum 3) First-Class Mail International only with the price for all other qualifying classes of mail. There is no price change to First Class Mail International only. This document serves to correct the error by replacing First Class Mail International only to reflect all other qualifying classes of mail.

DATES: *Effective date:* January 9, 2022.

FOR FURTHER INFORMATION CONTACT: Dale Kennedy at 202–268–6592 or Kathy Frigo at 202–268–4178.

SUPPLEMENTARY INFORMATION:

Correction

On page 67863, column 3 under Certificate of Mailing Individual Pieces, revise the third line titled Firm mailing sheet (PS Form 3665), per piece (minimum 3) First-Class Mail International only to reflect Firm mailing sheet (PS Form 3665), per piece (minimum 3) All other qualifying classes of mail as follows:

- Certificate of mailing service: Prices for competitive international certificate of mailing service will be as follows:

CERTIFICATE OF MAILING

	Fee
Individual pieces:	
Individual article (PS Form 3817)	$1.65
Duplicate copy of PS Form 3817 or PS Form 3665 (per page)	1.65
Firm mailing sheet (PS Form 3665), per piece (minimum 3)	
All other qualifying classes of mail	0.57
Bulk quantities:	
For first 1,000 pieces (or fraction thereof)	9.35
Each additional 1,000 pieces (or fraction thereof)	1.20
Duplicate copy of PS Form 3606	1.65

Ruth Stevenson,

Chief Counsel, Ethics and Legal Compliance.

[FR Doc. 2021–26971 Filed 12–13–21; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2021–0534; FRL–9218–01–OCSPP]

Trichoderma harzianum Strain T-78; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of *Trichoderma harzianum* strain T-78 in or on all food commodities when used in accordance with label directions and good agricultural practices. Symborg, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Trichoderma harzianum* strain T-78 under FFDCA when used in accordance with this exemption.

DATES: This regulation is effective December 14, 2021. Objections and requests for hearings must be received on or before February 14, 2022 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2021–0534, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room are closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Charles Smith, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Office of the Federal Register's e-CFR site at *https://www.ecfr.gov/current/title-40.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2021–0534 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before February 14, 2022. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b), although EPA strongly encourages those interested in submitting objections or a hearing request to submit objections and hearing requests electronically. *See* Order Urging Electronic Service and Filing (April 10, 2020), *https://www.epa.gov/sites/production/files/2020-05/documents/2020-04-10_-_order_urging_electronic_service_and_filing.pdf.* At this time, because of the COVID–19 pandemic, the judges and staff of the Office of Administrative Law Judges are working remotely and not able to accept filings or correspondence by courier, personal delivery, or commercial delivery, and the ability to receive filings or correspondence by U.S. Mail is similarly limited. When submitting documents to the U.S. EPA Office of Administrative Law Judges (OALJ), a person should utilize the OALJ e-filing system at *https://yosemite.epa.gov/OA/EAB/EAB-ALJ_upload.nsf.*

Although EPA's regulations require submission via U.S. Mail or hand delivery, EPA intends to treat submissions filed via electronic means as properly filed submissions during this time that the Agency continues to maximize telework due to the pandemic; therefore, EPA believes the preference for submission via electronic means will not be prejudicial. If it is impossible for a person to submit documents electronically or receive service electronically, *e.g.,* the person does not have any access to a computer, the person shall so advise OALJ by contacting the Hearing Clerk at (202) 564–6281. If a person is without access to a computer and must file documents by U.S. Mail, the person shall notify the Hearing Clerk every time it files a document in such a manner. The address for mailing documents is U.S. Environmental Protection Agency, Office of Administrative Law Judges, Mail Code 1900R, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2021–0534, by one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/

DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets/where-send-comments-epa-dockets.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

II. Background

In the **Federal Register** of September 22, 2021 (86 FR 52624) (FRL–8792–03), EPA issued a notice pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance exemption petition (PP 0F8852) by Symborg, Inc., P.O. Box 12810, San Luis Obispo, CA 93406. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the fungicide *Trichoderma harzianum* strain T-78 in or on all food commodities. That notice referenced a summary of the petition prepared by the petitioner Symborg, Inc. and available in the docket via *https://www.regulations.gov.* No comments were received on the notice of filing.

III. Final Rule

A. EPA's Safety Determination

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement of a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance or tolerance exemption and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' Additionally, FFDCA section 408(b)(2)(D) requires that EPA consider ''available information concerning the cumulative effects of [a particular pesticide's] . . . residues and other substances that have a common mechanism of toxicity.''

EPA evaluated the available toxicological and exposure data on *Trichoderma harzianum* strain T-78 and considered their validity, completeness, and reliability, as well as the relationship of this information to human risk. A full explanation of the data upon which EPA relied and its risk assessment based on those data can be found within the document entitled ''Microbial Human Health Risk Assessment for *Trichoderma harzianum* strain T-78''. This document, as well as other relevant information, is available in the docket for this action as described under **ADDRESSES**.

The available data demonstrated that, with regard to humans, *Trichoderma harzianum* strain T-78 is not toxic, pathogenic, or infective via the injection route of exposure; is not toxic, pathogenic, or infective via the oral route of exposure; is not toxic, pathogenic, or infective via the pulmonary route of exposure; and is not expected to be toxic via oral, dermal, or inhalation routes of exposure based on the data presented in the three toxicity/pathogenicity studies. Additionally, all three of the toxicity/pathogenicity studies demonstrated a pattern of clearance of *Trichoderma harzianum* strain T-78 from the blood and organs of the test animals. Based on the lack of adverse effects seen in the available toxicity/pathogenicity data, EPA did not identify any points of departure for assessing risk; thus, no quantitative risk assessment was conducted. Significant dietary and non-occupational exposures to residues of *Trichoderma harzianum* strain T-78 are not anticipated because it will be used only as a soil-directed treatment and it is not expected to remain at high levels on plant surfaces or readily percolate through soil before reaching ground water. Even if dietary and non-occupational exposures to residues of *Trichoderma harzianum* strain T-78 were to occur, there is no concern due to the lack of potential for adverse effects. Because there are no threshold levels of concern with the toxicity, pathogenicity, or infectivity of *Trichoderma harzianum* strain T-78, EPA determined that no additional margin of safety is necessary to protect infants and children as part of the qualitative assessment conducted. Based upon its evaluation in the *Trichoderma harzianum* strain T-78 Human Health Assessment, which concludes that there are no risks of concern from aggregate exposure to *Trichoderma harzianum* strain T-78, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of *Trichoderma harzianum* strain T-78.

B. Analytical Enforcement Methodology

An analytical method is not required for *Trichoderma harzianum* strain T-78 because EPA is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. Conclusion

Therefore, an exemption from the requirement of a tolerance is established for residues of *Trichoderma harzianum* strain T-78 in or on all food commodities when used in accordance with label directions and good agricultural practices.

IV. Statutory and Executive Order Reviews

This action establishes an exemption from the requirement of a tolerance under FFDCA section 408(d) in response to a petition submitted to EPA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance exemption in this action, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

This action directly regulates growers, food processors, food handlers, and food

retailers, not States or Tribes. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, EPA has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, EPA has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require EPA's consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (15 U.S.C. 272 note).

V. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 6, 2021.

Edward Messina,

Director, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter I as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Add § 180.1390 to subpart D to read as follows:

§ 180.1390 Trichoderma harzianum strain T-78; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of *Trichoderma harzianum* strain T-78 in or on all food commodities when used in accordance with label directions and good agricultural practices.

[FR Doc. 2021–26844 Filed 12–13–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2020–0577; FRL–9216–01–OCSPP]

Kosakonia cowanii strain SYM00028; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of *Kosakonia cowanii* strain SYM00028 in or on all food commodities when used in accordance with label directions and good agricultural practices. Indigo Ag, Inc., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Kosakonia cowanii* strain SYM00028 under FFDCA when used in accordance with this exemption.

DATES: This regulation is effective December 14, 2021. Objections and requests for hearings must be received on or before February 14, 2022 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2020–0577, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room are closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Charles Smith, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Office of the Federal Register's e-CFR site at *https://www.ecfr.gov/current/title-40.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2020–0577 in the subject line on the first page of your submission. All objections and requests for a hearing

must be in writing and must be received by the Hearing Clerk on or before February 14, 2022. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b), although EPA strongly encourages those interested in submitting objections or a hearing request to submit objections and hearing requests electronically. *See* Order Urging Electronic Service and Filing (April 10, 2020), *https://www.epa.gov/sites/production/files/2020-05/documents/2020-04-10_-_order_urging_electronic_service_and_filing.pdf.* At this time, because of the COVID–19 pandemic, the judges and staff of the Office of Administrative Law Judges are working remotely and not able to accept filings or correspondence by courier, personal delivery, or commercial delivery, and the ability to receive filings or correspondence by U.S. Mail is similarly limited. When submitting documents to the U.S. EPA Office of Administrative Law Judges (OALJ), a person should utilize the OALJ e-filing system at *https://yosemite.epa.gov/OA/EAB/EAB-ALJ_upload.nsf.*

Although EPA's regulations require submission via U.S. Mail or hand delivery, EPA intends to treat submissions filed via electronic means as properly filed submissions during this time that the Agency continues to maximize telework due to the pandemic; therefore, EPA believes the preference for submission via electronic means will not be prejudicial. If it is impossible for a person to submit documents electronically or receive service electronically, *e.g.,* the person does not have any access to a computer, the person shall so advise OALJ by contacting the Hearing Clerk at (202) 564–6281. If a person is without access to a computer and must file documents by U.S. Mail, the person shall notify the Hearing Clerk every time it files a document in such a manner. The address for mailing documents is U.S. Environmental Protection Agency, Office of Administrative Law Judges, Mail Code 1900R, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2020–0577, by one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets/where-send-comments-epa-dockets.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

II. Background

In the **Federal Register** of February 24, 2021 (86 FR 11215) (FRL–10019–68), EPA issued a notice pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance exemption petition (PP 0F8845) by Indigo Ag, Inc., 500 Rutherford Ave., Ste. 201, Boston, MA 02129. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the fungicide *Kosakonia cowanii* strain SYM00028 in or on all food commodities. That notice referenced a summary of the petition prepared by the petitioner Indigo Ag, Inc., and available in the docket via *https://www.regulations.gov.* No comments were received on the notice of filing.

III. Final Rule

A. EPA's Safety Determination

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement of a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance or tolerance exemption and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' Additionally, FFDCA section 408(b)(2)(D) requires that EPA consider ''available information concerning the cumulative effects of [a particular pesticide's] . . . residues and other substances that have a common mechanism of toxicity.''

EPA evaluated the available toxicological and exposure data on *Kosakonia cowanii* strain SYM00028 and considered their validity, completeness, and reliability, as well as the relationship of this information to human risk. A full explanation of the data upon which EPA relied and its risk assessment based on those data can be found within the document entitled ''Product Chemistry Review and Human Health Risk Assessment for the Section 3 Registration Submitted by Indigo Ag Inc., (EP Indigo 229 FP/WD) Containing the New Active Ingredient *Kosakonia cowanii* strain SYM00028'' (*Kosakonia cowanii* strain SYM00028 Human Health Assessment). This document, as well as other relevant information, is available in the docket for this action as described under **ADDRESSES**.

The available data demonstrated that, with regard to humans, *Kosakonia cowanii* strain SYM00028 is not toxic via the pulmonary (LC_{50} > 5.21 mg/L), oral (LD_{50} > 5,000 mg/kg bodyweight), or dermal (LD_{50} > 5,050 mg/kg bodyweight) routes of exposure; is not toxic, pathogenic, or infective via the injection route of exposure when administered intravenously at a nominal dose of 2.43×10^7 colony-forming units per test animal; is not anticipated to be pathogenic or infective via the oral or pulmonary routes of exposure; and is slightly irritating via the dermal route of exposure. Additionally, the acute injection toxicity/pathogenicity study demonstrated a pattern of clearance of *Kosakonia cowanii* strain SYM00028 from the blood and organs of the test animals. Significant dietary and non-occupational exposures to residues of *Kosakonia cowanii* strain SYM00028 are not anticipated because it will be used only as a seed treatment and it is not expected to remain at high levels on plant surfaces or readily percolate through soil. Even if dietary and non-occupational exposures to residues of *Kosakonia cowanii* strain SYM00028 were to occur, there is not a concern due

to the lack of potential for adverse effects. Because there are no threshold levels of concern with the toxicity, pathogenicity, or infectivity of *Kosakonia cowanii* strain SYM00028, EPA determined that no additional margin of safety is necessary to protect infants and children as part of the qualitative assessment conducted. Based upon its evaluation in the *Kosakonia cowanii* strain SYM00028 Human Health Assessment, which concludes that there are no risks of concern from aggregate exposure to *Kosakonia cowanii* strain SYM00028, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of *Kosakonia cowanii* strain SYM00028.

B. Analytical Enforcement Methodology

An analytical method is not required for *Kosakonia cowanii* strain SYM00028 because EPA is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. Conclusion

Therefore, an exemption from the requirement of a tolerance is established for residues of *Kosakonia cowanii* strain SYM00028 in or on all food commodities when used in accordance with label directions and good agricultural practices.

IV. Statutory and Executive Order Reviews

This action establishes a tolerance exemption under FFDCA section 408(d) in response to a petition submitted to EPA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance exemption in this action, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, EPA has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, EPA has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require EPA's consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (15 U.S.C. 272 note).

V. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 6, 2021.

Edward Messina,

Director, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter I as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Add § 180.1387 to subpart D to read as follows:

§ 180.1387 Kosakonia cowanii strain SYM00028; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of *Kosakonia cowanii* strain SYM00028 in or on all food commodities when used in accordance with label directions and good agricultural practices.

[FR Doc. 2021–26846 Filed 12–13–21; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 413 and 512

[CMS–1749–CN]

RIN 0938–AU39

Medicare Program; End-Stage Renal Disease Prospective Payment System, Payment for Renal Dialysis Services Furnished to Individuals With Acute Kidney Injury, End-Stage Renal Disease Quality Incentive Program, and End-Stage Renal Disease Treatment Choices Model; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographic error that appeared in the final rule published in the **Federal Register** on November 8, 2021 entitled ''Medicare Program; End-Stage Renal Disease Prospective Payment System, Payment for Renal Dialysis Services Furnished to Individuals With Acute Kidney Injury, End-Stage Renal Disease Quality Incentive Program, and End-Stage Renal Disease Treatment Choices Model.''

DATES: This correction is effective January 1, 2022.

FOR FURTHER INFORMATION CONTACT:

ESRDPayment@cms.hhs.gov, for issues related to the ESRD PPS and coverage and payment for renal dialysis services furnished to individuals with AKI.

ESRDApplications@cms.hhs.gov, for issues related to the Transitional Add-On Payment Adjustment for New and Innovative Equipment and Supplies (TPNIES).

Delia Houseal, (410) 786–2724, for issues related to the ESRD QIP.

ETC-CMMI@cms.hhs.gov, for issues related to the ESRD Treatment Choices (ETC) Model.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2021–23907 of November 8, 2021 (86 FR 61874), there was a typographic error that is identified and corrected by the Correction of Errors section below. The correction in this document is effective as if it had been included in the document published November 8, 2021. Accordingly, the correction is effective January 1, 2022.

II. Summary of Error

On page 61874, in the third sentence of the first column, we inadvertently left the number ''412'' in the CFR citation at the top of the document. Therefore, the number ''412'' should be deleted.

III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

We believe that this correcting document does not constitute a rule that would be subject to the notice and comment or delayed effective date requirements. This document corrects a typographic error and does not make substantive changes to the policies or payment methodologies that were adopted in the final rule. Thus, this correcting document is intended to ensure that the information is accurately reflected in the final rule.

Even if this were a rulemaking to which the notice and comment and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the correction in this document into the calendar year (CY) 2022 End-Stage Renal Disease (ESRD) Prospective Payment System (PPS) final rule or delaying the effective date of the correction would be contrary to the public interest because it is in the public interest to ensure that the rule accurately reflects our policies as of the date they take effect. Further, such procedures would be unnecessary because we are not making any substantive revisions to the final rule, but rather, we are simply correcting the **Federal Register** document to reflect the policies that we previously proposed, received public comment on, and subsequently finalized in the CY 2022 ESRD PPS final rule. For these reasons, we believe there is good cause to waive the requirements for notice and comment and delay in effective date.

IV. Correction of Errors

In FR Doc. 2021–23907 of November 8, 2021 (86 FR 61874), make the following correction:

On page 61874, in the first column; in the third sentence, remove the number ''412'' from the CFR citation.

Karuna Seshasai,

Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2021–26914 Filed 12–13–21; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 21–93; DA 21–1499; FR ID 61508]

Establishing Emergency Connectivity Fund To Close the Homework Gap

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Wireline Competition Bureau (the Bureau) grants a petition for an expedited waiver of the Emergency Connectivity Fund (ECF) Program's invoice filing deadline submitted by the State E-rate Coordinators' Alliance (SECA) and clarifies the service delivery date for certain funding requests.

DATES: Effective December 14, 2021.

FOR FURTHER INFORMATION CONTACT: For further information, please contact Gabriela Gross, Telecommunications Access Policy Division, Wireline Competition Bureau, at *gabriela.gross@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in WC Docket No. 21–93; DA 21–1499, adopted and released on December 2, 2021. The full text of this document is available for public inspection on the Commission's website at *https://www.fcc.gov/document/wcb-waives-ecf-invoice-deadline-and-clarifies-service-delivery-date.*

Synopsis

I. Introduction

1. In the Order, the Bureau grants a petition for an expedited waiver of the ECF Program's invoice filing deadline submitted by SECA. Specifically, and subject to the limitations stated in the Order, the Bureau waives §§ 54.1711(d) and (e) of the Commission's rules to provide relief to applicants that: (a) Applied for ECF funding during the first or second application filing windows; (b) incorrectly used June 30, 2022 as the service delivery date on their ECF FCC Form 471 applications for equipment and/or other non-recurring services, rather than the actual service delivery date; and (c) received a funding commitment decision letter (FCDL) or revised funding commitment decision letter (RFCDL) noting August 29, 2022 as the invoice filing deadline based on the incorrect service delivery date (Affected Program Participants).

2. Accordingly, the Bureau directs the Universal Service Administrative Company (USAC), the Administrator of the ECF Program, to continue to use the August 29, 2022 invoice filing deadline noted on the Affected Program Participants' FCDLs and RFCDLs and allow them to submit their requests for reimbursement on or before this date. To the extent other applicants incorrectly used June 30, 2022 as the service delivery date for equipment and/or non-recurring services, rather than the actual delivery date, but have not yet received an FCDL or RFCDL with an invoice filing deadline, the Bureau directs USAC to use June 30, 2022 as the service delivery date for these requests. The Bureau also extends this relief to service providers that agreed to file requests for reimbursement on behalf of

these applicants. Going forward, to avoid confusion and for administrative ease, the Bureau clarifies that the service delivery date for all requests for equipment, other non-recurring services, and recurring services submitted in any filing window covering funding for purchases made between July 1, 2021 and June 30, 2022 is June 30, 2022 (*i.e.,* the last date of the funding period) and modifies this procedural rule accordingly.

II. Discussion

3. Generally, the Commission's rules may be waived for good cause shown. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.

4. Given the confusion around the appropriate service delivery date to use for equipment and other non-recurring services, and the reliance on an incorrect invoice filing deadline as a result, the Bureau finds that granting a limited waiver of the invoice filing deadline for the Affected Program Participants is appropriate and allows them to submit their requests for reimbursement by August 29, 2022. Although the Bureau's *Public Notice,* 86 FR 41408, August 2, 2021, established June 30, 2022 as the service delivery date for equipment and other non-recurring services *if* the equipment or services had not yet been ordered or received at the time of the applicant's funding request submission, some applicants mistakenly used this date as the service delivery date despite having already received the equipment and/or services at the time of their filing, resulting in USAC's issuance of FCDLs and RFCDLs with an incorrect invoice filing deadline of August 29, 2022 (*i.e.,* 60 days after June 30, 2022), rather than an earlier filing deadline based on their actual service delivery date. As a result, these applicants may not know that their requests for reimbursement are in fact due before August 29, 2022, and their requests for reimbursement will be denied as untimely without the Bureau's action.

5. Moreover, a waiver of the invoice filing deadline will not lead to any undue advantage in funding as the Affected Program Participants will not receive more funding than that allowed under the ECF Program rules, and the equipment and services have already been delivered. In addition, the Bureau finds that the public interest would not be served were these Affected Program Participants to lose ECF funding for equipment and services needed to connect students, school staff, and library patrons during this unprecedented time.

6. The Bureau therefore directs USAC to continue to use the August 29, 2022 invoice filing deadline noted on the FCDLs and RFCDLs and allow the Affected Program Participants to submit their requests for reimbursement on or before this date. To the extent other applicants incorrectly used June 30, 2022 as the service delivery date for equipment and/or other non-recurring services despite having already received them at the time of their application filing, but have not yet received an FCDL or RFCDL, the Bureau directs USAC to use June 30, 2022 as the service delivery date for these requests. The Bureau also extends this relief to service providers that agreed to file requests for reimbursement on behalf of these applicants.

7. To avoid confusion and minimize administrative burdens, for the first two application filing windows and any subsequent window the Commission may open for eligible purchases made between the same period (*i.e.,* July 1, 2021 through June 30, 2022), the Bureau allows applicants to use June 30, 2022 (*i.e.,* the last date of the funding period) as the service delivery date for all funding requests for equipment, other non-recurring services, and recurring services submitted during these windows. The Bureau takes this action solely for purposes of establishing an invoice filing deadline for these funding requests and streamlining the process for program participants. The Bureau modifies § 54.1711(e) accordingly as reflected in the following. The Bureau makes these changes without notice and comment in accordance with the exception to the Administrative Procedure Act (APA) for procedural rules. The updated rule will become effective upon publication of the Order in the **Federal Register**.

8. In granting the requested relief, the Bureau emphasizes that the Order does not alter the obligation of ECF Program participants to comply with the Commission's rules, including their obligation to certify to receipt of eligible equipment and/or services on their ECF FCC Forms 472 and 474 (*i.e.,* the requests for reimbursement). Nor does it impact funding requests for construction of new networks, and the Bureau reminds applicants seeking support for future construction that they have one year from the date of a funding commitment decision to show that construction is completed and services have been provided. The Bureau also remind applicants that, unlike E-Rate program rules, ECF Program rules do not permit any invoice filing extensions. For this reason, any ECF Program participant that requires additional time to submit their requests for reimbursement beyond the relief granted herein must file a request for waiver directly with the Commission and demonstrate good cause.

9. Finally, the Bureau finds no evidence of waste, fraud, or abuse presented by waiving the invoice filing deadline. The Bureau emphasizes that the Commission is committed to guarding against waste, fraud, and abuse and ensuring that funds disbursed through the ECF Program are used for appropriate purposes. Although the Bureau grants a waiver of the Commission's invoice filing deadline for the ECF Program, this action does not affect the authority of the Commission or USAC to conduct audits or investigations to determine compliance with ECF Program rules and requirements.

III. Ordering Clauses

10. *Accordingly, it is ordered,* pursuant to the authority contained in sections 1–4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154 and 254, and §§ 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR 0.91, 0.291, and 1.3, that 47 CFR 54.1711 of the Commission's rules *is waived* to the extent provided herein.

11. *It is further ordered,* that pursuant to § 1.102(b)(1) of the Commission's rules, 47 CFR 1.102(b)(1), this Order *shall be effective* upon release.

12. The amended rule adopted in the Order and contained in the following constitutes a rule of agency organization, procedure and practice and is not subject to the APA requirements pursuant to 5 U.S.C. 553(b)(3)(A). Accordingly, this amended rule is *effective* upon publication in the **Federal Register**.

List of Subjects in 47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, Internet, Libraries, Puerto Rico, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone, Virgin Islands.

Federal Communications Commission.

Cheryl Callahan

Assistant Chief, Telecommunications Access Policy Division, Wireline Competition Bureau.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

■ 1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, and 1601–1609, unless otherwise noted.

■ 2. Amend 54.1711 by revising paragraph (e) to read as follows:

§ 54.1711 Emergency Connectivity Fund requests for reimbursement.

* * * * *

(e) *Service delivery date.* For the initial filing window set forth in § 54.1708(b) and any subsequent filing windows covering funding for purchases made between July 1, 2021 and June 30, 2022, the service delivery date for equipment, other non-recurring services, and recurring services is June 30, 2022.

[FR Doc. 2021–26921 Filed 12–13–21; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 200124–0029; RTID 0648–XB632]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; 2022 Red Snapper Private Angling Component Closures in Federal Waters Off Texas

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces a closure for the 2022 fishing season for the red snapper private angling component in the exclusive economic zone (EEZ) off Texas in the Gulf of Mexico (Gulf) through this temporary rule. The red snapper recreational private angling component in the Gulf EEZ off Texas will close on January 1, 2022, until 12:01 a.m., local time, on June 1, 2022. This closure is necessary to prevent the private angling component from exceeding the Texas regional management area annual catch limit (ACL) and to prevent overfishing of the Gulf red snapper resource.

DATES: This closure is effective at 12:01 a.m., local time, on January 1, 2022, until 12:01 a.m., local time, on June 1, 2022.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *Kelli.ODonnell@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Gulf reef fish fishery, which includes red snapper, is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The final rule implementing Amendment 40 to the FMP established two components within the recreational sector fishing for Gulf red snapper: The private angling component, and the Federal for-hire component (80 FR 22422, April 22, 2015). Amendment 40 also allocated the red snapper recreational ACL (recreational quota) between the components and established separate seasonal closures for the two components. On February 6, 2020, NMFS implemented Amendments 50A–F to the FMP, which delegated authority to the Gulf states (Louisiana, Mississippi, Alabama, Florida, and Texas) to establish specific management measures for the harvest of red snapper in Federal waters of the Gulf by the private angling component of the recreational sector (85 FR 6819, February 6, 2020). These amendments allocate a portion of the private angling ACL to each state, and each state is required to constrain landings to its allocation.

As described at 50 CFR 622.23(c), a Gulf state with an active delegation may request that NMFS close all, or an area of, Federal waters off that state to the harvest and possession of red snapper by private anglers. The state is required to request the closure by letter to NMFS, providing dates and geographic coordinates for the closure. If the request is within the scope of the analysis in Amendment 50A, NMFS publishes a notification in the **Federal Register** implementing the closure for the fishing year. Based on the analysis in Amendment 50A, Texas may request a closure of all Federal waters off the State to allow a year-round fishing season in State waters. As described at 50 CFR 622.2, ''off Texas'' is defined as the waters in the Gulf west of a rhumb line from 29°32.1′ N lat., 93°47.7′ W long. to 26°11.4′ N lat., 92°53′ W long., which line is an extension of the boundary between Louisiana and Texas.

On December 3, 2021, NMFS received a request from the Texas Parks and Wildlife Department (TPWD) to close the EEZ off Texas to the red snapper private angling component during the 2022 fishing year. Texas requested that the closure be effective from January 1 through May 31, 2022. NMFS has determined that this request is within the scope of analysis contained within Amendment 50A, which analyzed the potential impacts of a closure of all Federal waters off Texas, consistent with Texas's intent to maintain a year-round fishing season in State waters during which a part of Texas' ACL could be caught.

Therefore, the red snapper recreational private angling component in the Gulf EEZ off Texas will close at 12:01 a.m., local time, on January 1, 2022, until 12:01 a.m., local time, on June 1, 2022. This closure applies to all private-anglers (those on board vessels that have not been issued a valid charter vessel/headboat permit for Gulf reef fish) regardless of which state they are from or where they intend to land. Once the EEZ off Texas opens on June 1, 2022, TPWD will continue to monitor private recreational landings, and if necessary, will request that NMFS again close the EEZ in 2022 to ensure the Texas regional management area ACL is not exceeded.

On and after the effective dates of this closure in the EEZ off Texas, the harvest and possession red snapper in the EEZ off Texas by the private angling component is prohibited and the bag and possession limits for the red snapper private angling component in the closed area is zero.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 622.23(c), which was issued pursuant to 304(b), and is exempt from review under Executive Order 12866, and other applicable laws.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing the area closure authority

and the State-specific private angling ACLs has already been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because a failure to implement the closure immediately would be inconsistent with Texas's State management plan and may result in less access to red snapper in State waters.

For the aforementioned reasons, there is good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 8, 2021.

Ngagne Jafnar Gueye,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–26957 Filed 12–13–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.: 201214–0338; RTID 0648–XB615]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfers From VA to CT and NC to RI; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of quota transfer; correction.

SUMMARY: This action corrects an error in the calculation of the post-transfer quota for the State of North Carolina that published in the **Federal Register** on November 26, 2021.

DATES: Effective December 9, 2021.

FOR FURTHER INFORMATION CONTACT: Laura Hansen, Fishery Management Specialist, 978–281–9225.

SUPPLEMENTARY INFORMATION: On November 26, 2021, we published a notification of commercial summer flounder quota transfers. The Commonwealth of Virginia and the State of North Carolina transferred a portion of their 2021 commercial summer flounder quota to the States of Connecticut and Rhode Island, respectively (86 FR 67360). The notification included an error in the post-transfer revised commercial quota for the State of North Carolina. The revised quota for North Carolina after the 22,158 lb (10,051 kg) transfer to Rhode Island was incorrectly listed as 2,952,765 lb (1,339,352 kg) instead of 2,932,765 lb (1,330,280 kg). This correction notifies the public of the corrected revised commercial quota for the State of North Carolina.

Correction

In FR Doc. 2021–25839, beginning on page 67360 in the **Federal Register** of November 26, 2021, make the following correction. On page 67360, in the third column, ''2,952,765 lb (1,339,352 kg)'' is corrected to read ''2,932,765 lb (1,330,280 kg)'' in its place.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 9, 2021.

Ngagne Jafnar Gueye,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–27007 Filed 12–9–21; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 86, No. 237
Tuesday, December 14, 2021

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–1070; Project Identifier 2020–CE–004–AD]

RIN 2120–AA64

Airworthiness Directives; Diamond Aircraft Industries GmbH Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Diamond Aircraft Industries GmbH (DAI) Model DA 42, DA 42 NG, and DA 42 M–NG airplanes. This proposed AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a loose rudder T-yoke axle nut. This proposed AD would require replacing the rudder T-yoke axle with an improved rudder T-yoke axle. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by January 28, 2022.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria; phone: +43 2622 26700; fax: +43 2622 26780; email: *office@diamond-air.at;* website: *https://www.diamondaircraft.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1070; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the MCAI, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Penelope Trease, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 26805 E 68th Avenue, Denver, CO 80249; phone: (303) 342–1094; fax: (303) 342–1088; email: *penelope.trease@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–1070; Project Identifier 2020–CE–004–AD'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Penelope Trease, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 26805 E 68th Avenue, Denver, CO 80249. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0302, dated December 13, 2019 (referred to after this as ''the MCAI''), to address an unsafe condition on DAI Model DA 42, DA 42 M, DA 42 M–NG, and DA 42 NG airplanes. The MCAI states:

> Occurrences were reported of finding a loose rudder T-yoke axle nut on DA 42 aeroplanes.
>
> This condition, if not detected and corrected, could lead to vertical movement of the axle, possibly resulting in reduced rudder control of the aeroplane.
>
> To address this potential unsafe condition, DAI issued the applicable MSB [Mandatory Service Bulletin], providing instructions to inspect for correct installation of the self-locking nut to the affected part.
>
> For the reason described above, this [EASA] AD requires repetitive inspections for correct installation of the self-locking nut to the affected part and, depending on findings, accomplishment of applicable corrective action(s) and replacement of the self-locking

nut. This [EASA] AD also provides an optional terminating action for the repetitive inspections.

You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1070.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Diamond Aircraft Recommended Service Bulletin DAI RSB 42–139 and DAI RSB 42NG–081, dated October 21, 2019 (issued as one document), published with DAI Work Instruction WI–RSB 42–139 and WI–RSB 42NG–081, Revision 1, dated October 24, 2019 (issued as one document) attached. The service bulletin specifies complying with the work instruction, which contains procedures for replacing the rudder T-yoke axle with an improved (additional retaining pin) rudder T-yoke axle. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

FAA's Determination

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and service information referenced above. The FAA is issuing this NPRM after determining the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require replacing the rudder T-yoke axle with an improved rudder T-yoke axle.

Differences Between This Proposed AD and the MCAI

The MCAI applies to the Model DA 42 M airplane and this proposed AD would not because it does not have an FAA type certificate.

The MCAI requires repetitively inspecting the self-locking nut until the rudder T-yoke axle is replaced with improved part number (P/N) D60–5320–00–32. This proposed AD would require installing rudder T-yoke axle P/N D60–5320–00–32 and would not have an inspection requirement.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 193 airplanes of U.S. registry. The FAA estimates that it would take about 6 work-hours to replace the rudder T-yoke axle and require parts costing $166. The average labor rate is $85 per work-hour. Based on these figures, the FAA estimates the cost of this proposed AD on U.S. operators to be $130,468 or $676 per airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Would not affect intrastate aviation in Alaska, and

(3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

Diamond Aircraft Industries GmbH: Docket No. FAA–2021–1070; Project Identifier 2020–CE–004–AD.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by January 28, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Diamond Aircraft Industries GmbH Model DA 42, DA 42 NG, and DA 42 M–NG airplanes, serial numbers 42.004 through 42.391, 42.394 through 42.396, 42.399 through 42.402, 42.405 through 42.416, 42.427, 42.AC001 through 42.AC135, 42.AC137 through 42.AC145, 42.AC148, 42.AC150 through 42.AC152, 42.MN001 through 42.MN034, 42.MN037 through 42MN042, 42.MN050 through 42.MN055, 42.MN057, 42.MN058, 42.MN100 through 42.MN103, 42.N001 through 42.N067, 42.N100 through 42.N250, 42.N300 through 42.N381, 42.N391, 42.NC001 through 42.NC004, and 42.NC006 through 42.NC008, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 5320, Fuselage Miscellaneous Structure.

(e) Unsafe Condition

This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a loose rudder T-yoke axle nut. The FAA is issuing this AD to prevent movement of the T-yoke axle. The unsafe condition, if not addressed, could result in reduced control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

(1) Within 100 hours time-in-service after the effective date of this AD or 12 months after the effective date of this AD, whichever occurs first, replace rudder T-yoke axle part number (P/N) LN 9037–M6x90 with rudder T-yoke axle P/N D60–5320–00–32 in accordance with the Instructions, section III,

in Diamond Aircraft Work Instruction WI–RSB 42–139 and WI–RSB 42NG–081, Revision 1, dated October 24, 2019 (issued as one document) attached to Diamond Aircraft Recommended Service Bulletin DAI RSB 42–139 and DAI RSB 42NG–081, dated October 21, 2019.

(2) As of the effective date of this AD, do not install rudder T-yoke axle P/N LN 9037–M6x90 on any airplane.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (i)(1) and email to: *9-AVS-AIR-730-AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(i) Related Information

(1) For more information about this AD, contact Penelope Trease, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 26805 E 68th Avenue, Denver, CO 80249; phone: (303) 342–1094; fax: (303) 342–1088; email: *Penelope.Trease@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2019–0302, dated December 13, 2019, for more information. You may examine the EASA AD in the AD docket at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1070.

(3) For service information identified in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria; phone: +43 2622 26700; fax: +43 2622 26780; email: *office@diamond-air.at;* website: *https://www.diamondaircraft.com.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

Issued on December 8, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–26976 Filed 12–13–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–1031; Airspace Docket No. 21–ASO–14]

RIN 2120–AA66

Proposed Amendment and Removal of VOR Federal Airways V–18, V–115, V–222, V–241, V–245, V–311, V–321, V–325, V–333, V–415, V–417, and V–463 in the Southeastern United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify 7 VHF Omnidirectional Range (VOR) Federal Airways, (V–18, V–115, V–222, V–241, V–245, V–321, and V–333) and remove 5 VOR Federal Airways, (V–311, V–325, V–415, V–417, and V–463) in association with the Atlanta VOR Minimum Operation Network (MON) project in the southeastern United States. This action is necessary due to the planned decommissioning of the following five ground-based navigational aids (NAVAIDs): Dyersburg, TN, (DYR) VOR and Tactical Air Navigational System (VORTAC); Crimson, AL, (LDK) VORTAC; Malden, MO, (MAW) VORTAC; Monticello, AR, (MON) VOR/DME; and the Muscle Shoals, AL, (MSL) VOR/Distance Measuring Equipment (DME). This proposal would provide for the safe and efficient use of navigable airspace within the National Airspace System (NAS) while reducing NAVAID dependencies throughout the NAS as part of the FAA VOR MON program.

DATES: Comments must be received on or before January 28, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1 (800) 647–5527 or (202) 366–9826. You must identify FAA Docket No. FAA–2021–1031; Airspace Docket No. 21–ASO–14 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. FAA Order JO 7400.11F is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order JO 7400.11F at NARA, email: *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the VOR Federal airway route structure in the eastern United States to maintain the efficient flow of air traffic.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2021–1031; Airspace Docket No. 21–ASO–14) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped

postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2021–1031; Airspace Docket No. 20–ASO–14.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this proposed rule. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to modify 7 VOR Federal airways (V–18, V–115, V–222, V–241, V–245, V–321, V–333) and remove 5 VOR Federal airways (V–311, V–325, V–415, V–417, V–463). This action is necessary due to the planned decommissioning of the five following ground-based NAVAIDs: Dyersburg, TN, (DYR) VORTAC; Crimson, AL, (LDK) VORTAC; Malden, MO, (MAW) VORTAC; Monticello, AR, (MON) VOR/DME; and the Muscle Shoals, AL, (MSL) VORTAC. The proposed changes are described below.

When new navigation aid radials are proposed in an NPRM, both True North (T) and Magnetic North (M) values are stated in route descriptions. Only True North is specified in any subsequent final rules.

V–18: V–18 currently extends, in two parts: From Belcher, LA, (EIC) VORTAC to Vulcan, AL, (VUZ) VORTAC; and, From Colliers, SC, (IRQ) VORTAC to Charleston, SC, (CHS) VORTAC. The FAA proposes to remove the segments from the Crimson, AL, (LDK) VORTAC to Vulcan, AL, and the segment from Colliers, SC, to Charleston, SC. As proposed, V–18 would extend between the Belcher, LA, (EIC) VORTAC and the Meridian, MS, (MEI) VORTAC.

V–115: V–115 currently consists of two parts: From the Crestview, FL, (CEW) VORTAC, to the Volunteer, TN, (VXV) VORTAC; and From the Charleston, WV, (HVQ) VOR/DME to the Parkersburg, WV, (JPU) VOR/DME. The FAA proposes to remove the segments extending from the intersection of the Montgomery, AL, (MGM) VORTAC 323° and the Vulcan, AL, (VUZ) VORTAC 177° radials to the Choo Choo, TN, (GQO) VORTAC. Therefore, the first part of V–115 would extend between the Crestview VORTAC and the Montgomery VORTAC. A new second route segment would be inserted from the intersection of the Hinch Mountain, TN, (HCH) VOR/DME 160°(T/)162°(M) and the Volunteer, TN, 228°(T)/231°(M) radials, to the Volunteer VORTAC. Finally, the existing segment of V–115 from the Charleston VORTAC to the Parkersburg VORTAC would remain unchanged as a third part of the route.

V–222: V–222 currently consists of two parts: From the El Paso, TX, (ELP) VORTAC to the intersection of radials from the Lynchburg, VA, (LYH) VOR/DME and the Columbus, GA, (CSG) VORTAC; and from the intersection of radials from the Foothills, SC, (ODF) VOR/DME, and the Harris, GA, (HRS) VORTAC to Lynchburg, VA. The FAA proposes to remove the airway segments from the LaGrange, GA, (LGC) VORTAC to the Lynchburg VOR/DME. Therefore, the proposed amended route would extend between the El Paso VORTAC and the Montgomery, AL, (MGM) VORTAC.

V–241: V–241 currently extends between the Semmes, AL, (SJI) VORTAC and the intersection of the Columbus, GA, (CSG) VORTAC 010° and the LaGrange, GA, (LGC) VORTAC 048° radials. The FAA proposes to remove the segment that extends from the Columbus VORTAC to the intersection of the Columbus 010° and LaGrange 048° radials. Therefore, the proposed amended route would extend from Semmes VORTAC to the Eufaula, AL, (EUF) VORTAC.

V–245: V–245 currently extends from the Alexandria, LA, (AEX) VORTAC to the Crimson, AL, (LDK) VORTAC. The FAA proposes to remove the segment that extends from the intersection of the Bigbee, MS, (IGB) VORTAC 082° and Crimson 304° radials to the Crimson VORTAC. As proposed, the amended route would extend between the Alexandria VORTAC and the Bigbee VORTAC.

V–311: V–311 currently extends between the Hinch Mountain, TN, (HCH) VOR/DME, and the Charleston, SC, (CHS) VORTAC. The FAA proposes to remove the entire route.

V–321: V–321 currently extends from the Pecan, GA, (PZD) VOR/DME to the Livingston, TN, (LVT) VOR/DME. The FAA proposes to remove the segment that extends from the Pecan VORTAC to the intersection of the LaGrange, GA, (LGC) VORTAC 342° and Gadsden, AL, (GAD) VOR/DME 124°radials. Therefore, the proposed amended route would extend from the Gadsden VOR/DME to the Livingston VOR/DME.

V–325: V–325 currently extends from the Columbia, SC, (CAE) VORTAC, to the intersection of the Foothills, SC, (ODF) VOR/DME 222° and Harris, GA, (HRS) VORTAC 187° radials and then from the intersection of the Rome, GA, (RMG) VORTAC 133° and Gadsden, AL, (GAD) VOR/DME 091° radials to the Muscle Shoals, AL, (MSL) VORTAC. The FAA proposes to remove the entire route.

V–333: V–333 currently extends from the intersection of the Rome, GA, (RMG) VORTAC 133° and Gadsden, AL, (GAD) VOR/DME 091° radials, to the Lexington, KY, (HYK) VOR/DME. The FAA proposes to remove the segments that extend from the intersection of the Rome, and Gadsden radials to the Hinch Mountain, TN, (HCH) VOR/DME. The proposed amended route would extend from the intersection of the Hinch Mountain 010°(T)/012°(M) and the Livingston, TN, 123°(T)/125°(M) radials, to the Lexington VOR/DME.

V–415: V–415 currently extends from the Montgomery, AL, (MGM) VORTAC to the intersection of the Spartanburg, SC, (SPA) VORTAC 101° and Charlotte, NC, (CLT) VOR/DME 229° radials. The FAA proposes to remove the entire route.

V–417: V–417 currently extends from the Meridian, MS, (MEI) VORTAC to the Charleston, SC, (CHS) VORTAC. The FAA proposes to remove the entire route.

V–463: V–463 currently extends from the intersection of the Harris, GA, (HRS) VORTAC 179° and Foothills, SC, (ODF) VOR/DME 222° radials, to the Harris VORTAC. The FAA proposes to remove the entire route.

Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in this document would be subsequently published in FAA Order JO 7400.11.

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–18 [Amended]

From Belcher, LA; Monroe, LA; Magnolia, MS; Meridian, MS.

* * * * *

V–115 [Amended]

From Crestview, FL; INT Crestview 001° and Montgomery, AL, 204° radials; to Montgomery. From INT Hinch Mountain, TN, 160°(T)/162°(M) and Volunteer, TN, 228°(T)/231°(M) radials; Volunteer. From Charleston, WV; to Parkersburg, WV.

* * * * *

V–222 [Amended]

From El Paso, TX, via Salt Flat, TX; Fort Stockton, TX; 20 miles, 116 miles, 55 MSL, Junction, TX; Stonewall, TX; INT Stonewall 113° and Industry, TX, 267° radials; Industry; INT Industry 101° and Humble 259° radials; Humble; Beaumont, TX; Lake Charles, LA; McComb, MS; Eaton, MS; Monroeville, AL; to Montgomery, AL.

* * * * *

V–241 [Amended]

From Semmes, AL, via Crestview, FL; INT Crestview 076° and Wiregrass, AL, 232° radials; Wiregrass; to Eufaula, AL.

* * * * *

V–245 [Amended]

From Alexandria, LA, via Natchez, MS; Magnolia, MS; to Bigbee, MS.

* * * * *

V–311 [Removed]

* * * * *

V–321 [Amended]

From Gadsden, AL; INT Gadsden 333° and Rocket, AL, 149° radials; Rocket, Shelbyville, TN; Livingston, TN.

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V–325 [Removed]

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V–333 [Amended]

From INT Hinch Mountain, TN, 010°(T)/012°(M) and Livingston, KY, 123°(T)/125°(M) radials; to Lexington, KY.

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V–415 [Removed]

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V–417 [Removed]

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V–463 [Removed]

* * * * *

Issued in Washington, DC, on December 7, 2021.

Margaret C. Flategraff,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–26979 Filed 12–13–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Proposed Amendment of Class C Airspace at Nashville International Airport, TN; Informal Airspace Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: This notice announces a fact-finding informal airspace meeting regarding a plan to modify the Class C Airspace at Nashville International Airport, TN (KBNA). The meeting will be a virtual format via the Zoom platform. The purpose of the meeting is to solicit aeronautical comments on the proposal's effects on local aviation operations. All comments received during the meeting, and the subsequent comment period, will be considered prior to the issuance of a notice of proposed rulemaking.

DATES: The meeting will be held on Tuesday, February 22, 2022, from 6:00 p.m. to 8:00 p.m. Eastern Time (5:00 p.m. to 7:00 p.m. Central Time). Comments must be received on or before March 22, 2022.

ADDRESSES: Send comments on the proposal, in triplicate, to: Matthew

Cathcart, Manager, Operations Support Group, Eastern Service Area, Air Traffic Organization, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; or via email to: *9-AJO-BNA-Class-C-Comments@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Ray E. Cummins, Air Traffic Manager, Nashville Airport Traffic Control Tower, 515 Olen Taylor Dr., Nashville, TN 37217; telephone: (615) 695–4501. Email: *Ray.E.Cummins@faa.gov.*

SUPPLEMENTARY INFORMATION:

Agenda for the Meeting

—Presentation of Meeting Procedures
—Informal Presentation of the Planned Class C Airspace Area
—Public Presentations
—Discussion and Questions
—Closing Comments

Meeting Procedures

(a) *Registration:* To attend the meeting, the public can register here: *https://zoom.us/webinar/register/WN_nEcLIdHdSIuqb89gW_212Q.*

(b) The meeting will be open to all persons on a space-available basis. There will be no admission fee or other charge to attend and participate. The meeting will be informal in nature and will be conducted by one or more representatives of the FAA Eastern Service Area. A representative from the FAA will present a briefing on the planned airspace modifications.

(c) Each participant will be given an opportunity to deliver comments or make a presentation, although a time limit may be imposed. Only comments concerning the plan to modify the Nashville Class C airspace area will be accepted.

(d) Each person wishing to make a presentation will be asked to note their intent when registering for the meeting so those time frames can be established. This meeting will not be adjourned until everyone registered to speak has had an opportunity to address the panel. This meeting may be adjourned at any time if all persons present have had an opportunity to speak.

(e) Position papers or other handout material relating to the substance of the meeting will be accepted. Participants submitting papers or handout materials should send them to the mail or email address noted in the COMMENTS section, above.

(f) The meeting will be available on the FAA YouTube channel. A summary of the comments made at the meeting will be filed in the rulemaking docket.

Information gathered through this meeting will assist the FAA in drafting a notice of proposed rulemaking (NPRM) that would be published in the **Federal Register**. The public will be afforded the opportunity to comment on any NPRM published on this matter.

A graphic depiction of the proposed airspace modifications may be viewed at the following URL: *https://www.faa.gov/go/nash. Note:* This URL link will become available on December 17, 2021.

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O.10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

Issued in Washington, DC, on December 7, 2021.

Margaret C. Flategraff,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–26980 Filed 12–13–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–1048; Airspace Docket No. 21–ASO–13]

RIN 2120–AA66

Proposed Amendment of VOR Federal Airways V–7, V–9, and V–11; Eastern United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify VHF Omnidirectional Range (VOR) Federal airways V–7, V–9, and V–11. This action is necessary due to the planned decommissioning of the Dyersburg, TN, (DYR); Malden, MO, (MAW); and the Muscle Shoals, AL, (MSL), VOR and Tactical Air Navigation (VORTAC) facilities, under the FAA's VOR Minimum Operational Network (MON) program, which provide navigation guidance for segments of the routes.

DATES: Comments must be received on or before January 28, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1 (800) 647–5527 or (202) 366–9826. You must identify FAA Docket No. FAA–2021–1048; Airspace Docket No. 21–ASO–13 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. FAA Order JO 7400.11F is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order JO 7400.11F at NARA, email: *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION: Authority for this Rulemaking The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the VOR Federal airway route structure in the eastern United States to maintain the efficient flow of air traffic.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2021–1048; Airspace Docket No. 21–ASO–13) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit

comments through the internet at *https://www.regulations.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2021–1048; Airspace Docket No. 21–ASO–13.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this proposed rule. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to modify VOR Federal airways V–7, V–9, and V–11 in the eastern United States due to the planned decommissioning of the Dyersburg, TN, (DYR); Malden, MO, (MAW); and the Muscle Shoals, AL, (MSL) VORTACs as part of the FAA VOR MON program. The proposed route changes are described below.

V–7: V–7 currently consists of three separate parts: From Dolphin, FL, to Muscle Shoals, AL; From Pocket City, IN, to the intersection of radials from the Chicago Heights, IL, and Badger, WI, navigation aids; and From Green Bay, WI, to Sawyer, MI. The FAA proposes to amend the first part of the route by removing the segment between Vulcan, AL, and Muscle Shoals, AL. As amended, the first part of V–7 would extend between Dolphin, FL, and Montgomery, AL. Parts two and three of the route would remain unchanged. Additionally, the current legal description of V–7 contains the following statements: ''The airspace below 2,000 feet MSL outside the United States is excluded. The portion outside the United States has no upper limit.'' A review of aeronautical charts revealed that no part of V–7 extends outside of United States airspace. Therefore, the FAA intends to remove the statements from the legal description. Other changes to V–7 are being proposed in a separate docket action.

V–9: V–9 currently consists of two separate parts: From Leeville, LA, to Pontiac, IL; and from Janesville, WI, to Houghton, MI. The FAA proposes to remove the airway segments between Sidon, MS, and Malden, MO, from the first part of the route. As a result, the first part of the route would extend between Leeville, LA, and Magnolia, MS. This proposal would move the start point for the second part of the route from Janesville, WI, to Farmington, MO. The second part of the route would extend from Farmington to Pontiac, IL. V–9 would then consist of a third part from Janesville, WI, to Houghton, MI.

V–11: V–11 currently extends between Magnolia, MS. and the intersection of the Fort Wayne, IN, 038°, and the Flag City, OH, 308° radials. The FAA proposes to remove the segments between Magnolia, MS, and Dyersburg, TN. As amended, V–11 would extend between Cunningham, KY and the intersection of the Fort Wayne, IN, 038°, and the Flag City, OH, 308° radials, as currently charted.

Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in this document would be subsequently published in FAA Order JO 7400.11.

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–7 [Amended]

From Dolphin, FL; INT Dolphin 299° and Lee County, FL, 120° radials; Lee County; Lakeland, FL; Cross City, FL; Seminole, FL; Wiregrass, AL; INT Wiregrass 333° and Montgomery, AL, 129° radials; Montgomery. From Pocket City, IN; INT Pocket City 016° and Terre Haute, IN, 191° radials; Terre Haute; Boiler, IN; Chicago Heights, IL; to INT Chicago Heights 358° and Badger, WI, 117° radials. From Green Bay, WI; Menominee, MI; to Sawyer, MI.

* * * * *

V–9 [Amended]

From Leeville, LA; McComb, MS; INT McComb 004° and Magnolia, MS 194° radials; to Magnolia. From Farmington, MO; St. Louis, MO; Spinner, IL; to Pontiac, IL. From Janesville, WI; Madison, WI; Oshkosh, WI; Green Bay, WI; Iron Mountain, MI; to Houghton, MI.

* * * * *

V–11 [Amended]

From Cunningham, KY; Pocket City, IN; Brickyard, IN; Marion, IN; Fort Wayne, IN; to INT Fort Wayne 038° and Flag City, OH, 308° radials.

* * * * *

Issued in Washington, DC, on December 7, 2021.

Margaret C. Flategraff,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–26978 Filed 12–13–21; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2021–0773; FRL–9219–01–R9]

Air Plan Approval; Arizona; Maricopa County Air Quality Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Maricopa County Air Quality Department (MCAQD) portion of the Arizona State Implementation Plan (SIP). These revisions concern emissions of particulate matter (PM) from wood burning devices. We are proposing to approve local rules to regulate this emission source under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before January 13, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2021–0773 at *https://www.regulations.gov*. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets*. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4125 or by email at vineyard.christine@*epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

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I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules addressed by this proposal with the date that they were adopted by the local air agency and submitted by the Arizona State Department of Environmental Quality (ADEQ).

TABLE 1—SUBMITTED RULES

Local agency	Rule No. Ordinance No.	Rule title	Revised	Submitted
MCAQD	Ordinance P–26	Residential Woodburning Restriction	10/23/19	11/20/19
MCAQD	Rule 314	Outdoor Fires and Commercial/Institutional Solid Fuel Burning.	10/23/19	11/20/19

On May 20, 2020, the submittal for MCAQD Ordinance P–26 and Rule 314 was deemed by operation of law to meet the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of these rules?

We approved earlier versions of Ordinance P–26 and Rule 314 into the SIP on 11/9/09 (74 FR 57612). The MCAQD adopted revisions to the SIP-approved versions on 10/23/19 and ADEQ submitted them to us on 11/20/19. In its submittal letter, ADEQ requested that, upon approval of the revised versions of Ordinance P–26 and Rule 314, the EPA remove the old versions of these rules from this SIP. If we take final action to approve the 10/23/19 versions of Ordinance P–26 and Rule 314, these versions will replace the previously approved versions of these rules in the SIP.

C. What is the purpose of the submitted rule revisions?

Emissions of PM, including PM equal to or less than 2.5 microns in diameter ($PM_{2.5}$) and PM equal to or less than 10 microns in diameter (PM_{10}), contribute to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires states to submit regulations that control PM emissions. Ordinance P–26 and Rule 314 were revised to clarify the types of open outdoor fires allowed in Maricopa County, when each type is allowed, and which rule requirements are associated with each type of fire increase. Also added was a requirement to use seasoned wood. The EPA's technical support document (TSD) has more information about these rules.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rules?

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193). Guidance and policy documents that we used to evaluate enforceability, revision/relaxation, and rule stringency requirements for the applicable criteria pollutants include the following:

1. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).
4. ''State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 59 FR 41998 (August 16, 1994).
5. ''PM–10 Guideline Document,'' EPA 452/R–93–008, April 1993.
6. ''Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures (BACM),'' EPA 450/2–92–004, September 1992.

B. Do the rules meet the evaluation criteria?

These rules meet CAA requirements and are consistent with relevant guidance regarding enforceability, BACM, and SIP revisions. The TSD has more information on our evaluation.

C. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rules because they fulfill all relevant requirements. We will accept comments from the public on this proposal until January 13, 2022. If we take final action to approve the submitted rules, our final action will incorporate these rules into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the MCAQD rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through *https://www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: December 7, 2021.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2021–27022 Filed 12–13–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2021–0623; FRL–8997–01–R9]

Air Plan Approval; Arizona, California, Nevada; Emissions Statements Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions, under the Clean Air Act (CAA or ''Act''), to portions of the Arizona, California, and Nevada State Implementation Plans (SIPs) regarding emissions statements (ES) requirements for the 2015 ozone national ambient air quality standards (NAAQS). We are also proposing to approve ES certifications (''certifications'') adopted by various California air districts that existing SIP-approved rules are adequate to meet the ES requirements for the 2015 ozone NAAQS. In addition, we are proposing that the following Arizona, California, and Nevada nonattainment areas (NAAs) meet the ES requirements for the 2015 ozone NAAQS: Phoenix-Mesa, Yuma, Amador County, Butte County, Imperial County, Los Angeles-San Bernardino Counties (West Mojave Desert), Los Angeles-South Coast Air Basin, Nevada County (Western part), Riverside County (Coachella Valley), Sacramento Metro, San Diego County, San Francisco Bay Area, San Joaquin Valley, San Luis Obispo (Eastern part), Sutter Buttes, Tuolumne County, Ventura County, and Las Vegas. We are also proposing to approve that two NAAs meet requirements for prior ozone NAAQS. Finally, we are proposing that Maricopa County Air Quality District (MCAQD) Rule 100, section 503, which we proposed for approval into the SIP on February 23, 2021, meets the ES requirements for the 2015 ozone NAAQS. We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before January 13, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2021–0623 at *https://www.regulations.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Nancy Levin, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3848 or by email at *Levin.Nancy@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to the EPA.

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I. The State's Submittal

A. What rules or certifications did the states submit?

The Arizona Department of Environmental Quality (ADEQ) submitted rules for the Arizona Administrative Code (AAC) and Pinal County Air Quality Control District (AQCD) portions of the SIP. The California Air Resources Board submitted rules or certifications for the the Amador Air District (AAD), Butte County Air Quality Management District (AQMD), El Dorado County AQMD, Feather River AQMD, Imperial County Air Pollution Control District (APCD), Placer County APCD, San Luis Obispo County APCD, and Tuolumne County APCD portions of the California SIP. The Nevada Division of Environmental Protection submitted a rule for the Clark County Department of Air Quality (CCDAQ) portion of the Nevada SIP.

Table 1 lists the rules submitted for approval into the SIP with the dates that the rules were adopted or revised by the local or state air agencies and submitted by the states to fulfill CAA section 182(a)(3)(B) Emissions Statements (''section 182(a)(3)(B)'') requirements. Table 2 lists ES certifications with the dates the certifications were adopted by the local air agencies and submitted by the State of California to meet section 182(a)(3)(B) requirements.[1] Tables 1 and 2 also list the dates that the EPA determined that the submittals met the completeness criteria in 40 Code of Federal Regulations (CFR) Part 51 Appendix V or were deemed by operation of law to meet the completeness criteria in 40 CFR part 51 Appendix V (''complete by operation of law'' or COL), which must be met before formal EPA review.

[1] Neither Arizona nor Nevada submitted emissions certifications for the 2015 ozone NAAQS.

TABLE 1—SUBMITTED RULES

Agency	Rule No.	Rule title	Adopted/ revised	Submitted	Deemed complete
ADEQ	AAC R18–2–327	Annual Emissions Inventory Questionnaire and Emissions Statement.	12/4/2020	12/22/2020	COL, 6/22/2020.
Pinal County AQCD	Rule 3–1–103	Annual emissions inventory questionnaire and emissions statement.	7/1/2020	7/21/2020	COL, 1/21/2021.
Amador Air District	Rule 428	Emissions Statements	3/16/2021	6/10/2021	Letter, 9/25/2021.
Butte County AQMD	Rule 434	Emissions Statements	6/25/2020	7/27/2020	COL, 1/27/2021.
El Dorado County AQMD	Rule 1000	Emission Statement	8/25/2020	9/22/2020	COL, 3/22/2021.
El Dorado County AQMD	Rule 1001.1	Emission Statement Waiver	8/25/2020	9/22/2020	COL, 3/22/2021.
Feather River AQMD	Rule 4.8	Further Information	8/3/2020	12/15/2020	COL, 6/15/2021.
Imperial County APCD	Rule 116	Emissions Statement and Certification	11/3/2020	2/19/2021	COL, 8/19/2021.
Placer County APCD	Rule 503	Emission Statement	10/8/2020	12/15/2020	COL, 6/15/2021.
San Luis Obispo County AQMD	Rule 222	Federal Emission Statement	6/24/2020	7/27/2020	COL, 1/27/2021.
Tuolumne County APCD	Rule 428	Emissions Statements	7/21/2020	8/3/2020	COL, 2/3/2021.
CCDAQ	Section 12.9.1	Annual Emissions Statement[a]	8/18/2020	10/15/2020	COL, 4/15/2021.

[a] NDEP submitted Section 12.9 ''Annual Emissions Statement and Inventory Requirements,'' which includes 12.9.1 ''Annual Emissions Statement'' and 12.9.2 ''Annual Emissions Inventory.'' However, we are only acting on subsection 12.9.1 in this notice.

TABLE 2—SUBMITTED EMISSIONS STATEMENTS CERTIFICATIONS

[2015 ozone NAAQS][2]

Local agency	Existing SIP approved rule No.	Rule title	Adopted	Submitted	Deemed complete
Antelope Valley AQMD	Rule 107 (2012); 78 FR 21545 (April 11, 2013).	Certification of Submissions and Emission Statements.	7/21/2020	8/3/2020	COL, 2/3/2021.
Mojave Desert AQMD	Rule 107 (1992); 69 FR 29880 (May 26, 2004).	Certification and Emission Statements.	10/28/2019	12/20/2019	COL, 6/20/ 2020.
Northern Sierra AQMD	Rule 513 (2016); 82 FR 28240 (June 21, 2017).	Emissions Statements and Recordkeeping.	1/25/2021	3/23/2021	COL, 9/23/ 2021.
Sacramento Metropolitan AQMD.	Rule 105 (1996) 73 FR 32240 (June 6, 2008).	Emission Statement	7/23/2020	8/3/2020	COL, 2/3/2021.
San Diego County APCD	Rule 19.3 (1996); 65 FR 12472 (March 9, 2000).	Emission Information	10/14/2020	1/12/2021	COL, 7/12/ 2021.
San Francisco Bay Area AQMD.	Reg 2–Permits 2–1–429 (2004); 83 FR 23372 (May 21, 2018).	Federal Emissions Statement.	7/15/2020	8/3/2020	COL, 2/3/2021.
San Joaquin Valley APCD	Rule 1160 (1992); 84 FR 3302 (February 12, 2019).	Emission Statements (1992)	6/18/2020	8/3/2020	COL, 2/3/2021.
South Coast AQMD[a]	Rule 301 (2019); 84 FR 52005 (October 1, 2019).	Permitting and Associated Fees (paragraphs (e)(1), except (e)(1)(C), (e)(2), (5), and (8) only).	6/5/2020	8/3/2020	COL, 2/3/2021.
Ventura County APCD	Rule 24 (1992); 65 FR 76567 (December 7, 2000).	Source Recordkeeping, Reporting and Emission Statements.	7/14/2020	7/29/2020	COL, 1/29/ 2021.
Yolo-Solano AQMD	Rule 3.18 (1992); 69 FR 29880 (May 26, 2004).	Emission Statements	9/9/2020	11/2/2020	COL, 5/2/2021.

[2] All certifications in this table were submitted by the State of California. The ''Adopted'' and ''Submitted'' and ''Deemed Complete'' dates listed in Table 2 refer to those of the certifications.

[a] South Coast AQMD has jurisdiction over Riverside (Coachella), and Rule 301 applies to both the South Coast Air Basin and the Riverside (Coachella) nonattainment areas.

In addition to the certifications for the 2015 ozone NAAQS, the San Francsico Bay Area is certifying that Reg 2–Permits 2–1–429 meets section 182(a)(3)(B) requirements for the 1997 and 2008 ozone NAAQS, and the San Diego County APCD is certifying that Rule 19.3 meets section 182(a)(3)(B) requirements for the 2008 ozone NAAQS.

B. Are there other versions of these rules?

There are no previous versions of El Dorado County AQMD Rule 1000.1, Amador Air District Rule 428, Tuolumne County APCD Rule 428, or CCDAQ Regulations section 12.9 in the SIP. Table 3 lists versions of rules that we previously approved into the SIP. If we take final action to approve the submitted versions of these rules, they will replace the existing SIP-approved versions.

We approved an earlier version of MCAQD Rule 100, section 503 into the SIP on April 5, 2019 (84 FR 13543). On February 23, 2021 (86 FR 10903), the EPA proposed approval on revised Rule 100, section 503, which, if finalized, will replace the previously approved version of this rule in the SIP. In this action, we are proposing that MCAQD Rule 100, section 503, if finalized as proposed for approval into the SIP, will fulfill the 2015 ozone NAAQS requirement for emissions statements.

TABLE 3—EXISTING SIP-APPROVED RULES

State	Local agency	Rule	Final approval
AZ	ADEQ	R18–2–327 Annual Emissions Inventory Questionnaire and Emissions Statement (1995).	77 FR 66405 (November 5, 2012).
AZ	Pinal County Air Quality Control District (PCAQCD).	Rule 3–1–103 Annual emissions inventory questionnaire (1995).	61 FR 15717 (April 9, 1996).
CA	Butte County AQMD	Rule 434 Emissions Statements (2013)	80 FR 33195 (June 11, 2015).
CA	El Dorado County AQMD	Rule 1000 Emission Statement	69 FR 29880 (May 26, 2004).
CA	Feather River AQMD	Rule 4.8 Further Information (1992)	69 FR 29880 (May 26, 2004).
CA	Imperial County APCD	Rule 116 Emissions Statement and Certification (2010).	77 FR 72968 (December 7, 2012).
CA	Placer County APCD	Rule 503 Emission Statement (2010)	77 FR 72968 (December 7, 2012).
CA	San Luis Obispo County AQMD.	Rule 222 Federal Emission Statement (2014)	80 FR 33195 (June 11, 2015).

C. What is the purpose of the submitted rules or certifications?

Under the CAA, a SIP must require stationary sources in ozone NAAs classified as ''Marginal'' or above to report annual emissions of NO_X and VOC. See CAA section 182(a)(3)(B). Whenever the EPA promulgates a new ozone NAAQS, the state must submit a new or amended rule to ensure that the section 182(a)(3)(B) requirements are met.

Section 182(a)(3)(B)(i) requires states to submit a SIP revision that requires that owners or operators of stationary sources provide the state with a statement of actual emissions of VOC and NO_X at least annually, containing a certification that the information is accurate.[3]

In lieu of submitting a new or amended rule, the state may submit for SIP approval a certification that the existing SIP-approved rule satisfies the emissions statement requirements of CAA section 182(a)(3)(B) for the relevant ozone NAAQS. Specifically, the preamble of the EPA's ''Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements'' states that ''[W]here an air agency determines that an existing regulation is adequate to meet applicable nonattainment area planning requirements of CAA section 182 . . . for a revised ozone NAAQS, that air agency's SIP revision may provide a written statement certifying that determination in lieu of submitting new revised regulations.'' [4] The EPA's technical support document (TSD), which is in the docket for this rulemaking, has more information about these rules and certifications.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rules and certifications?

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193). Areas classified as Marginal nonattainment or higher are subject to the requirements of CAA section 182(a)(3)(B). Guidance and policy documents that we used to evaluate enforceability, revision/relaxation, and CAA requirements for the applicable criteria pollutants include the following:

1. ''Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements,'' 83 FR 62998 (December 6, 2018).
2. ''(Draft) Guidance on the Implementation of an Emission Statement Program,'' EPA, July 1992.
3. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
4. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
5. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).

B. Do the rules and certifications meet the evaluation criteria?

These rules and certifications meet CAA requirements and are consistent with relevant guidance regarding enforceability, SIP revisions, and emissions statement requirements. The TSD has more information on our evaluation.

C. The EPA's Recommendations To Further Improve the Rules or Certifications

The TSD includes recommendations for the next time local agencies modify the rules or submit certifications.

D. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rules and certifications because they fulfill all relevant requirements. We are also proposing that the following 2015 ozone nonattainment areas have met CAA section 182(a)(3)(B) requirements: Phoenix-Mesa, AZ; Yuma, AZ; Amador County, CA; Butte County, CA; Imperial County, CA; Los Angeles-San Bernardino Counties, CA (West Mojave Desert); Los Angeles-South Coast Air Basin, CA; Nevada County (Western part), CA; Riverside County (Coachella Valley) CA; Sacramento Metro, CA; San Diego County, CA; San Francisco Bay Area, CA; San Joaquin Valley, CA; San Luis Obispo (Eastern part), CA; Sutter Buttes, CA; Tuolumne, County, CA; Ventura County, CA; and Las Vegas, NV. We are also proposing to approve that the San Francisco Bay Area NAA meets the emissions statements requirements for the 1997 and 2008 ozone NAAQS, and the San Diego County NAA meets these requirements for the 2008 ozone NAAQS. Finally, we are proposing that MCAQD Rule 100, section 503, proposed for approval in a separate action on February 23, 2021, meets the

[3] Section 182(a)(3)(B)(ii) ''The State may waive the application of clause (i) to any class or category of stationary sources which emit less than 25 tons per year of volatile organic compounds or oxides of nitrogen if the State, in its submissions under subparagraphs (1) or (3)(A), provides an inventory of emissions from such class or category of sources, based on the use of the emission factors established by the Administrator or other methods acceptable to the Administrator.''

[4] ''Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements,'' 83 FR 62998 (December 6, 2018).

emissions statements requirements for the 2015 ozone NAAQS. We will accept comments from the public on this proposal until January 13, 2022. If we take final action to approve the submitted rules, our final action will incorporate these rules into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through *https://www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: December 7, 2021.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2021–27018 Filed 12–13–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–OAR–2021–0566; FRL–9090–01–OAR]

Notice of Opportunity To Comment on Proposed Denial of Petitions for Small Refinery Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed denial of petitions.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to deny all undecided/pending small refinery exemption petitions under the Renewable Fuel Standard program currently before the agency. EPA is providing an opportunity for the public to comment on our proposed denial of these petitions.

DATES: Comments must be received on or before February 7, 2022.

ADDRESSES: *Comments.* You may send your comments, identified by Docket ID No. EPA–HQ–OAR–2021–0566, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov* (our preferred method) Follow the online instructions for submitting comments.
- *Email: a-and-r-Docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2021–0566 in the subject line of the message.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Air Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier (by scheduled appointment only):* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov,* including any personal information provided. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov* or email, as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID–19.

FOR FURTHER INFORMATION CONTACT: Karen Nelson, Office of Transportation and Air Quality, Compliance Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: 734–214–4657; email address: *nelson.karen@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act (CAA) provides that a small refinery [1] may at any time petition EPA for an exemption from the obligations of the Renewable Fuel Standard (RFS) program for the reason of disproportionate economic hardship (DEH).[2] In evaluating such petitions, the EPA Administrator, in consultation with the Secretary of Energy, will consider the findings of a Department of Energy (DOE) study and other economic factors.[3]

The CAA provided an initial blanket small refinery exemption (SRE) to all small refineries, exempting them from their RFS obligations until calendar year 2011.[4] The CAA includes two additional provisions regarding extensions of the temporary exemption for the period after the initial blanket exemption expired. The first statutory mechanism, applicable to 2011 and 2012, was based on a DOE determination, through the above-mentioned study, that compliance with the RFS requirements would impose DEH on a small refinery. If DOE made such a determination, EPA was required to extend the small refinery's exemption for no less than two years.[5] Under the second statutory mechanism, small refineries are authorized to petition at any time for extensions of the original statutory exemption for the reason of DEH.[6] Since 2013, EPA has shared the incoming petitions and supporting information with DOE, and DOE has provided EPA with its findings based on a scoring matrix; however, the ultimate decision of whether to grant or deny a petition rests with EPA.[7]

[1] The CAA defines a small refinery as ''a refinery for which the average aggregate daily crude oil throughput for a calendar year . . . does not exceed 75,000 barrels.'' CAA section 211(*o*)(1)(K).

[2] CAA section 211(*o*)(9)(B)(i).

[3] CAA section 211(*o*)(9)(B)(ii).

[4] CAA section 211(*o*)(9)(A)(i).

[5] CAA section 211(o)(9)(A)(ii)(II).

[6] CAA section 211(o)(9)(B)(i).

[7] More information on the RFS program and the history of SREs, including how EPA's approach to evaluating SRE petitions has changed over time, can be found in Section II of the ''Proposed RFS Small Refinery Exemption Decision,'' available in the docket for this action.

II. Proposed Decision

In the Proposed RFS Small Refinery Exemption Decision (hereinafter ''the proposed adjudication,'' available in the docket for this action (Docket ID No. EPA–HQ–OAR–2021–0566) and on EPA's website at *https://www.epa.gov/renewable-fuel-standard-program/proposal-deny-petitions-small-refinery-exemptions*), we have conducted an extensive analysis and review of information provided by small refineries in their SRE petitions to EPA, finding that all refineries face the same costs to acquire RINs regardless of whether the RINs are created through the act of blending renewable fuels or purchased on the open market. This happens because the market price for these fuels increases to reflect the cost of the RIN, much as it would increase in response to higher crude prices. In other words, this increased price for gasoline and diesel fuel allows obligated parties to recover their RIN costs through the market price of the fuel they produce. Because the market behaves this way for all parties subject to the RFS, there is no disproportionate cost to any party, including small refineries. As a result, we conclude that small refineries do not face DEH.

Given this conclusion and the other reasons described in the proposed adjudication, we are proposing to deny all pending SRE petitions by finding the petitioning refineries do not face DEH caused by compliance with their RFS obligations. We seek comment on all aspects of this proposed denial, most notably on our conclusions that the CAA requires small refineries to demonstrate that DEH is caused by compliance with the RFS program and our economic analyses concluding that no small refineries face such disproportionate costs of compliance due to the RFS program. Specifically, we seek comment on our findings regarding the absence of a causal relationship between compliance with the RFS program and DEH experienced by small refineries. We request additional data that would show the relationship between RFS compliance costs and the price of transportation fuel blendstocks. We also seek comment on our proposed change in approach to SRE eligibility based on receipt of the original statutory exemption, and our decision to deny all pending/undecided SRE petitions based on the proportional nature of the RFS requirements and our findings regarding RIN cost passthrough. We intend to consider these comments before making a final determination on these pending petitions.

Joseph Goffman,

Principal Deputy Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2021–26983 Filed 12–13–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 171

[EPA–HQ–OPP–2021–0831; FRL–9134–01–OCSPP]

RIN 2070–AL00

Notification of Submission to the Secretary of Agriculture; Pesticides; Certification of Pesticide Applicators; Extension to Expiration Date of Certification Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of submission to the Secretary of Agriculture.

SUMMARY: This document notifies the public as required by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) that the EPA Administrator has forwarded to the Secretary of the United States Department of Agriculture (USDA) a draft regulatory document concerning ''Pesticides; Certification of Pesticide Applicators; Extension to Expiration Date of Certification Plans (RIN 2070–AL00).'' The draft regulatory document is not available to the public until after it has been signed and made available by EPA.

DATES: See Unit I. under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2021–0831, is available at *http://www.regulations.gov.* That docket contains historical information and this **Federal Register** document; it does not contain the draft final rule.

Please note that due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is open by appointment only. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Carolyn Schroeder, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania

Ave. NW, Washington, DC 20460; telephone number: (202) 566–2376; email address: *schroeder.carolyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What action is EPA taking?

FIFRA section 25(a)(2)(B) requires the EPA Administrator to provide the Secretary of USDA with a copy of any draft final rule at least 30 days before signing it in final form for publication in the **Federal Register**. The draft final rule is not available to the public until after it has been signed by EPA. If the Secretary of USDA comments in writing regarding the draft final rule within 15 days after receiving it, the EPA Administrator must include the comments of the Secretary of USDA, if requested by the Secretary of USDA, and the EPA Administrator's response to those comments with the final rule that publishes in the **Federal Register**. If the Secretary of USDA does not comment in writing within 15 days after receiving the draft final rule, the EPA Administrator may sign the final rule for publication in the **Federal Register** any time after the 15-day period.

II. Do any statutory and Executive Order reviews apply to this notification?

No. This document is merely a notification of submission to the Secretary of USDA. As such, none of the regulatory assessment requirements apply to this document.

List of Subjects in 40 CFR Part 171

Environmental protection, Applicator competency, Agricultural worker safety, Certified applicator, Pesticide safety training, Pesticide worker safety, Pesticides and pests, Restricted use pesticides.

Dated: December 8, 2021.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2021–26948 Filed 12–13–21; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 86, No. 237
Tuesday, December 14, 2021

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

December 9, 2021.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology Comments regarding these information collections are best assured of having their full effect if received by January 13, 2022. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Marketing Service

Title: Reporting Requirements Under Regulations Governing Inspection and Grading Services of Manufactured or Processed Dairy Products and the Certification of Sanitary Design & Fabrication of Equipment used in the Slaughter, Processing, and Packaging of Livestock and Poultry Products.

OMB Control Number: 0581–0126.

Summary of Collection: The Agricultural Marketing Act (AMA) of 1946 (7 U.S.C. 1621–1627), directs the Department to develop programs which will provide for and facilitate the marketing of agricultural products. The regulations governing the voluntary inspection and grading program for dairy products is contained in 7 CFR part 58. The certification regulations for livestock and poultry products are contained in 7 CFR part 54. The Government, industry and consumer will be well served if the Government can help ensure that dairy products are produced under sanitary conditions and that buyers have the choice of purchasing the quality of the product they desire. The dairy grading program is a voluntary user fee program. For a voluntary inspection program to perform satisfactorily with a minimum of confusion, information must be collected to determine what services are requested.

Need and Use of the Information: The information requested is used to identify products offered for grading; to identify a request from a manufacturer of equipment used in dairy, meat, or poultry industries for evaluation regarding sanitary design and construction; to identify and contact the party responsible for payment of the inspection, grading or equipment evaluation fee and expense; and to identify applicants who wish to be authorized for the display of official identification on product packaging, materials, equipment, utensils, or on descriptive promotional materials. The Agriculture Marketing service will use several forms to collect essential information to carry out and administer the inspection and grading program.

Description of Respondents: Business or other for profit.

Number of Respondents: 307.

Frequency of Responses: Reporting: On occasion; Other (when forms are requested).

Total Burden Hours: 1,027.

Agricultural Marketing Service

Title: Pandemic Response and Safety Program.

OMB Control Number: 0581–0326.

Summary of Collection: The Agricultural Marketing Act of 1946 (AMA) (7 U.S.C. 1621 *et seq.*) directs and authorizes USDA to administer Federal grant programs. AMS Grant Programs are administered through the Office of Management and Budget (OMB) Guidance for Grants and Agreements based on its regulations under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200) (85 FR 49506; December 13, 2020). Information collection requirements in this request are needed for AMS to administer a new competitive grant program, in accordance with 2 CFR part 200, entitled the Pandemic Response and Safety (PRS).

PRS is authorized pursuant to the authority of section 751 of the Consolidated Appropriations Act, 2021 (CAA) (Pub. L. 116–260) in response to the ongoing COVID–19 pandemic and worker protections in food processing, distribution, farmers markets, and agricultural production. The AMS Grants Division requests to collect information for this new grant program from individuals, small businesses, and nonprofit organizations working in food processing, distribution, farmers markets, and agricultural production.

Need and Use of the Information: Because this is a voluntary program, respondents request or apply for this specific competitive grant, and in doing so, they provide information. Information collected is used only by authorized representatives of USDA, AMS, Transportation and Marketing Program's Grants Division to certify that grant participants are complying with applicable program regulations, and the data collected is the minimum information necessary to effectively carry out program requirements. Information collection requirements in this request are essential to carry out the intent of section 751 of the CAA, to provide respondents the type of service they request, and to administer the program.

Description of Respondents: Grant applicants; or grant recipients.

Number of Respondents: 800,000.

Frequency of Responses: Reporting: On occasion; Other (when forms are requested).

Total Burden Hours: 916,660.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021–27016 Filed 12–13–21; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

[Docket ID FSA–2021–0012]

Notice of Funds Availability; Spot Market Hog Pandemic Program

AGENCY: Farm Service Agency, USDA.

ACTION: Notification of funding availability.

SUMMARY: The Farm Service Agency (FSA) is issuing this notice announcing the availability of $50 million for the new Spot Market Hog Pandemic Program (SMHPP) to provide assistance to producers that sold hogs through a negotiated sale from April 16, 2020, through September 1, 2020, the period in which these producers faced the greatest reduction in market prices due to the COVID–19 pandemic. The eligibility requirements, payment calculation, and application procedure for SMHPP are included in this notice.

DATES:

Funding availability: Implementation will begin December 14, 2021.

Comment Date: We will consider comments on the Paperwork Reduction Act that we receive by: February 14, 2022.

ADDRESSES: We invite you to submit comments on the information collection request. You may submit comments by any of the following methods, although FSA prefers that you submit comments electronically through the Federal eRulemaking Portal:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID FSA–2021–0012. Follow the online instructions for submitting comments.
- *Mail, Hand-Delivery, or Courier:* Director, Safety Net Division, FSA, USDA, 1400 Independence Avenue SW, Stop 0510, Washington, DC 20250–0522. In your comment, specify the docket ID FSA–2021–0012.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. All comments received, including those received by mail, will be posted without change and publicly available on *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Kimberly Graham; telephone: (202) 720–6825; email: *Kimberly.Graham@usda.gov.* Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice) or 844–433–2774 (toll-free nationwide).

SUPPLEMENTARY INFORMATION:

Background

The Coronavirus Aid, Relief, Economic Security (CARES) Act (Pub. L. 116–136) provides funding to prevent, prepare for, and respond to the COVID–19 pandemic by providing support for agricultural producers who were impacted. The Secretary announced the USDA Pandemic Assistance for Producers initiative on March 24, 2021. As a part of that initiative, FSA is implementing SMHPP, as directed by the Secretary, to make payments to producers that sold hogs through a negotiated sale from April 16, 2020, through September 1, 2020, the period in which these producers faced the greatest reduction in market prices due to the COVID–19 pandemic.

FSA and USDA's Agricultural Marketing Service (AMS) have identified negotiated hogs as a sector of the agricultural industry significantly impacted by the pandemic that had not been adequately addressed by previous pandemic relief programs and experienced the greatest market price impacts out of all hog purchase types. Using a price analysis of the average daily national negotiated sales during the pandemic compared to the daily 5-year average for years 2015 through 2019. FSA and AMS determined April 16, 2020, through September 1, 2020, to be the period with the greatest market impacts on hogs sold through a negotiated sale due to the pandemic. The reduced market prices were a result of fewer negotiated hogs being procured, packer production decreases due to employee illness, and supply chain issues. This period also generally aligns with the Coronavirus Food Assistance Program (CFAP) 2 eligibility period for swine, which ran from April 16, 2020, through August 31, 2020.

Direct payments will be limited to hog producers located in the United States. This assistance will be available to hog producers through SMHPP as provided in this notice.

FSA is administering SMHPP under the general supervision and direction of the FSA Administrator and AMS. AMS is providing technical assistance to FSA, which includes, but is not limited to, sharing expertise on the hog industry regarding the impact of the COVID–19 pandemic on the industry.

Definitions

The definitions in 7 CFR parts 718 and 1400 apply to SMHPP, except as otherwise provided in this document. The following definitions also apply.

Barrow means a neutered male swine, with the neutering performed before the swine reached sexual maturity.

Boar means a sexually intact male swine.

Breeding stock means sows and boars.

Contract grower means a person or legal entity who grows or produces eligible livestock under contract for or on behalf of another person or entity. The contract grower's income is dependent upon the successful production of livestock or offspring from livestock. The contract grower does not have ownership in the livestock and is not entitled to a share from sales proceeds of the livestock.

Gilt means a young female swine that has not produced a litter.

Hogs means barrows and gilts (excluding breeding stock).

Negotiated sale means a sale by a producer of hogs to a packer under which the base price for the hogs is determined by seller-buyer interaction and agreement on a delivery day. The hog industry also refers to a negotiated sale as a cash or spot market sale. The hogs are scheduled for delivery to the packer not more than 14 days after the date on which the hogs are committed to the packer. A negotiated formula sale is also considered a negotiated sale.

Negotiated formula sale means a hog or pork market formula sale under which:

(1) The formula is determined by negotiation on a lot-by-lot basis; and

(2) The hogs are scheduled for delivery to the packer not later than 14 days after the date on which the formula is negotiated and the hogs are committed to the packer.

Ownership interest means to have either a legal ownership interest or a beneficial ownership interest in a legal entity. For the purposes of administering SMHPP, a person or legal entity that owns a share or stock in a legal entity that is a corporation, limited liability company, limited partnership, or similar type entity where members hold a legal ownership interest, and shares in the profits or losses of such entity is considered to have an

ownership interest in such legal entity. A person or legal entity that is a beneficiary of a trust or heir of an estate who benefits from the profits or losses of such entity is considered to have a beneficial ownership interest in such legal entity.

Packer means a packer as defined in section 201 of the Packers and Stockyards Act, 1921 (7 U.S.C. 191). Therefore, packer means any person engaged in the business:

(a) Of buying livestock in commerce for purposes of slaughter;

(b) Of manufacturing or preparing meats or meat food products for sale or shipment in commerce; or

(c) Of marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce.

Producer means a person or legal entity who has ownership of the hogs and whose production and facilities are located in the United States.

Sold means the producer and packer agreed on the negotiated price through a negotiated sale, and the producer delivered the hogs within the time of that agreement. For SMHPP, a hog is considered sold on the date of the agreement, rather than when the hog or payment is delivered.

Sow means an adult female swine that has produced one or more litters.

Swine means domesticated omnivorous pig, hog, or boar.

United States means all 50 states of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any other territory or possession of the United States.

Eligible Hogs

Eligible hogs are hogs sold through a negotiated sale by producers from April 16, 2020, through September 1, 2020. FSA is providing assistance for these hogs because USDA has determined producers that sold hogs through negotiated sales were affected by the greatest reduction in market prices of swine producers due to the COVID–19 pandemic during this period. The hogs must have been physically located in the United States at the time of sale.

Eligible Producers

An eligible producer is a person or legal entity who has ownership of the eligible hogs and whose production and facilities are located in the United States.

To be eligible for SMHPP, a producer must be any of the following:

(1) Citizen of the United States;

(2) Resident alien, which for purposes of this subpart means ''lawful alien'' as defined in 7 CFR part 1400;

(3) Partnership of citizens or resident aliens of the United States;

(4) Corporation, limited liability company, or other organizational structure organized under State law solely owned by U.S. citizens or resident aliens; or

(5) Indian Tribe or Tribal organization, as defined in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

Eligible producers must have sold the hogs through negotiated sale contract during the time frame of April 16, 2020, through September 1, 2020.

Ineligible Producers

Ineligible producers include:

(1) Contract growers;

(2) Federal, State, and local governments, including public schools;

(3) Packers; and

(4) Producers for hog purchases through all other purchase types including:

—Other market formula,

—Swine or pork market formula,

—Other purchase arrangements, and

—Packer owned.

Application Process

FSA will accept applications from December 15, 2021, through February 25, 2022. To apply for SMHPP, eligible producers must submit a complete form FSA–940, Spot Market Hog Pandemic Program (SMHPP) Application. Applications may be submitted to any FSA county office in person or by mail, email, facsimile, or other methods announced by FSA.

Producers must also submit all of the following items, if not previously filed with FSA:

- Form AD–2047, Customer Data Worksheet for new customers or existing customers needing to update their customer profile;
- Form CCC–902, Farm Operating Plan for an individual or legal entity as provided in 7 CFR part 1400;
- Form CCC–901, Member Information for Legal Entities (if applicable);
- Form CCC–941, Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information, for the 2020 program year for the person or legal entity, including the legal entity's members, partners, shareholders, heirs, or beneficiaries as provided in 7 CFR part 1400;
- Form FSA–1123, Certification of 2020 Adjusted Gross Income, if applicable; and
- A highly erodible land conservation (sometimes referred to as HELC) and wetland conservation certification as provided in 7 CFR part 12 (form AD–1026 Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification for the SMHPP producer and applicable affiliates.

Producers must submit all required eligibility documentation specified above, as applicable, no later than 60 days from the date a producer signs and submits the form FSA–940. If the producer does not timely submit the required eligibility forms, or a member who is required to submit the form AD–1026 does not do so, FSA will not issue a payment. When the other required eligibility forms are not timely submitted for a member of a legal entity, FSA will reduce the payment based on the member's ownership interest in the legal entity.

If requested by FSA, the producer must provide supporting documentation to verify the accuracy of information provided on the application, including to substantiate the number of hogs reported on the application. Examples of supporting documentation that may be requested include negotiated sale agreement, veterinarian records, feeding records, inventory records, rendering receipts, purchase receipts, slaughter sheets (kill sheets), invoices, and other records determined acceptable by FSA. If any supporting documentation is requested to verify the sales of hogs sold through a negotiated sale, the documentation must be submitted to FSA within 30 days from the request or the application will be disapproved by FSA.

Payment

SMHPP payments compensate eligible hog producers for hogs sold through a negotiated sale from April 16, 2020, through September 1, 2020. To simplify administration of SMHPP, FSA and AMS has determined a single payment rate of $54 per head.

USDA calculated the average daily difference in the negotiated sales price during the applicable time frame, compared to the daily 5-year average for negotiated sales prices during April 16 through September 1 for years 2015 through 2019. The average daily difference was equal to $77 per hog based on the average carcass weight that was submitted to AMS through livestock mandatory reporting.

The SMHPP payment rate of $54 per head is equal to the $77 per head minus the CFAP 2 rate of $23 per head. CFAP 2 paid for the highest hog inventory from April 16, 2020, through August 31, 2020. CFAP 2 was available to all swine producers who qualified under the terms and conditions of such program

and the application period for CFAP 2 was extended, ending October 12, 2021, to allow additional time for all eligible producers to apply. SMHPP is therefore not intended to cover pandemic impacts that were or could have been compensated under CFAP 2; accordingly, the CFAP 2 hog payment rate of $23 per head has been deducted from the calculated payment rate for SMHPP.

SMHPP payments will be calculated by multiplying the number of head of eligible hogs, not to exceed 10,000 head, by the payment rate per head of $54. FSA will issue payments to eligible hog operations as applications are received and approved. SMHPP is not subject to payment limitations.

Provisions Requiring Refund to FSA

In the event that any application for an SMHPP payment resulted from erroneous information reported by the producer, the payment will be recalculated, and the producer must refund any excess payment to FSA, including interest to be calculated from the date of the disbursement to the SMHPP producer. If, for whatever reason, FSA determines that the producer misrepresented the total hogs sold through a negotiated sale, the application will be disapproved, and the producer must refund the full SMHPP payment to FSA with interest from the date of disbursement. Any required refunds must be resolved in accordance with 7 CFR part 3.

Miscellaneous Provisions

A person or legal entity, other than a joint venture or general partnership, is ineligible for SMHPP payments if the person's or legal entity's average adjusted gross income (AGI), using the average of the adjusted gross incomes for the 2016, 2017, and 2018 tax years, exceeds $900,000 as described in 7 CFR part 1400, subpart F, unless the exception described below applies. With respect to joint ventures and general partnerships, this average AGI provision will be applied to members of the joint venture and general partnership. Average AGI provisions are applicable to members, partners, stockholders, heirs, and beneficiaries with an ownership interest in a legal entity, including a general partnership or joint venture who are at or above the fourth tier of ownership in the business structure. The eligible hog producer's payment will be reduced by the portion of a payment attributed to a member who exceeds the average $900,000 AGI limitation or is otherwise ineligible for payment.

A person or legal entity whose average AGI exceeds $900,000 may otherwise be eligible for SMHPP payments if the 2020 AGI alone is less than $900,000. In order to qualify for this exception to the average AGI limitation, persons or legal entities must submit form FSA–1123 to certify that their 2020 AGI is not more than $900,000 and provide a certification from a licensed CPA or attorney attesting to the accuracy of the person's or legal entity's certification.

A payment made to a legal entity will be attributed to those members who have a direct or indirect ownership interest in the legal entity, unless the payment of the legal entity has been reduced by the proportionate ownership interest of the member due to that member's ineligibility.

Attribution of payments made to legal entities will be tracked through four levels of ownership in legal entities as follows:

- First level of ownership—any payment made to a legal entity that is owned in whole or in part by a person will be attributed to the person in an amount that represents the direct ownership interest in the first-tier or payment legal entity;
- Second level of ownership—any payment made to a first-tier legal entity that is owned in whole or in part by another legal entity (referred to as a second-tier legal entity) will be attributed to the second-tier legal entity in proportion to the ownership of the second-tier legal entity in the first-tier legal entity; if the second-tier legal entity is owned in whole or in part by a person, the amount of the payment made to the first-tier legal entity will be attributed to the person in the amount that represents the indirect ownership in the first-tier legal entity by the person;
- Third and fourth levels—except as provided in the second-level of ownership bullet above, any payments made to a legal entity at the third and fourth tiers of ownership will be attributed in the same manner as specified in the second-level of ownership bullet above; and
- Fourth-tier ownership—if the fourth-tier of ownership is that of a legal entity and not that of a person, a reduction in payment will be applied to the first-tier or payment legal entity in the amount that represents the indirect ownership in the first-tier or payment legal entity by the fourth-tier legal entity.

Payments made directly or indirectly to a person who is a minor child will not be combined with the earnings of the minor's parent or legal guardian.

A producer that is a legal entity must provide the names, addresses, ownership share, and valid taxpayer identification numbers of the members holding an ownership interest in the legal entity. Payments to a legal entity will be reduced in proportion to a member's ownership share when a valid taxpayer identification number for a person or legal entity that holds a direct or indirect ownership interest, at or above the fourth level of ownership in the business structure, is not provided to USDA.

If an individual or legal entity is not eligible to receive SMHPP payments due to the individual or legal entity failing to satisfy some other payment eligibility provision such as AGI or conservation compliance provisions, the payment made either directly or indirectly to the individual or legal entity will be reduced to zero. The amount of the reduction for the direct payment to the producer will be commensurate with the direct or indirect ownership interest of the ineligible individual or ineligible legal entity.

General requirements that apply to other FSA-administered commodity programs also apply to SMHPP, including compliance with the provisions of 7 CFR part 12, ''Highly Erodible Land and Wetland Conservation,'' and the provisions of 7 CFR 718.6, which address ineligibility for benefits for offenses involving controlled substances. Appeal regulations specified in 7 CFR parts 11 and 780 and equitable relief and finality provisions specified in 7 CFR part 718, subpart D, apply to determinations under SMHPP. The determination of matters of general applicability that are not in response to, or result from, an individual set of facts in an individual participant's application for payment are not matters that can be appealed. Such matters of general applicability include, but are not limited to, the determination of applicable time period for eligible negotiated sales and the payment rate for SMHPP.

Participants are required to retain documentation in support of their application for 3 years after the date of approval. Participants receiving SMHPP payments or any other person who furnishes such information to USDA must permit authorized representatives of USDA or the Government Accountability Office, during regular business hours, to enter the agricultural operation and to inspect, examine, and to allow representatives to make copies of books, records, or other items for the purpose of confirming the accuracy of the information provided by the participant.

A producer may file an application with an FSA county office after the SMHPP application deadline, and in such case the application will be considered a request to waive the deadline. The Deputy Administrator for Farm Programs, FSA (Deputy Administrator), has the discretion and authority to consider the case and waive or modify application deadlines and other requirements or program provisions not specified in law, in cases where the Deputy Administrator determines it is equitable to do so and where the Deputy Administrator finds that the lateness or failure to meet such other requirements or program provisions do not adversely affect the operation of SMHPP. Although producers have a right to a decision on whether they filed applications by the deadline or not, producers have no right to a decision in response to a request to waive or modify deadlines or program provisions. The Deputy Administrator's refusal to exercise discretion to consider the request will not be considered an adverse decision and is, by itself, not appealable.

Any payment under SMHPP will be made without regard to questions of title under State law and without regard to any claim or lien. The regulations governing offsets in 7 CFR part 3 apply to SMHPP payments.

In either applying for or participating in SMHPP, or both, the producer is subject to laws against perjury and any penalties and prosecution resulting therefrom, with such laws including but not limited to 18 U.S.C. 1621. If the producer willfully makes and represents as true any verbal or written declaration, certification, statement, or verification that the producer knows or believes not to be true, in the course of either applying for or participating in SMHPP, or both, then the producer is guilty of perjury and, except as otherwise provided by law, may be fined, imprisoned for not more than 5 years, or both, regardless of whether the producer makes such verbal or written declaration, certification, statement, or verification within or outside the United States.

For the purposes of the effect of a lien on eligibility for Federal programs (28 U.S.C. 3201(e)), USDA waives the restriction on receipt of funds under SMHPP but only as to beneficiaries who, as a condition of the waiver, agree to apply the SMHPP payments to reduce the amount of the judgment lien.

In addition to any other Federal laws that apply to SMHPP, the following laws apply: 15 U.S.C. 714; and 18 U.S.C. 286, 287, 371, and 1001.

Paperwork Reduction Act Requirements

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), FSA is requesting comments from interested individuals and organizations on the information collection request associated with SMHPP. After the 60-day period ends, the information collection request will be submitted to the Office of Management and Budget (OMB) for a 3-year approval to cover SMHPP information collection. To start the SMHPP information collection approval, prior to publishing this notice, FSA received emergency approval from OMB for 6 months. The emergency approval covers SMHPP information collection activities.

Title: SMHPP.

OMB Control Number: 0560–NEW.

Type of Request: New Collection.

Abstract: FSA will make payments to producers that sold hogs through negotiated sale from April 16, 2020, through September 1, 2020, the period in which these producers faced the greatest reduction in market prices as a result of the COVID–19 pandemic. FSA is expected to use an estimated $50 million in funds provided by the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116–136) to assist producers under SMHPP.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hour is the estimated average time per response multiplied by the estimated total annual responses.

Estimate of Respondent Burden: Public reporting burden for this information collection is estimated to average 0.32 hours per response to include the time for reviewing instructions, searching for information, gathering and maintaining the data, and completing and reviewing the collection of information.

Type of Respondents: Individuals or households, businesses or other for profit farms.

Estimated Annual Number of Respondents: 23,113.

Estimated Number of Reponses per Respondent: 1.965.

Estimated Total Annual Responses: 45,417.

Estimated Average Time per Response: 0.31 hours.

Estimated Total Annual Burden on Respondents: 14,253.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of the FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; or

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

Environmental Review

The environmental impacts have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulation for compliance with NEPA (7 CFR part 799).

As previously stated, SMHPP is providing payments to qualified hog operations for financial losses of hogs sold through negotiated sale from April 16, 2020, through September 1, 2020, due to low market prices as a result of COVID–19. The limited discretionary aspects of SMHPP do not have the potential to impact the human environment as they are administrative. Accordingly, these discretionary aspects are covered by the FSA Categorical Exclusions specified in 7 CFR 799.31(b)(6)(iii) that applies to price support programs and § 799.31(b)(6)(vi) that applies to safety net programs.

No Extraordinary Circumstances (§ 799.33) exist. As such, the implementation of SMHPP and the participation in SMHPP do not constitute major Federal actions that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this action and this document serves as documentation of the programmatic environmental compliance decision for this federal action.

Federal Assistance Programs

The title and number of the Federal assistance programs, as found in the

Catalog of Federal Domestic Assistance, to which this document applies is 10.144—Spot Market Hog Pandemic Program.

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family or parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (for example, braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA TARGET Center at (202) 720–2600 or 844–433–2774 (toll-free nationwide). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410 or email: *OAC@usda.gov.*

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Steven Peterson,

Acting Administrator, Farm Service Agency.

[FR Doc. 2021–27015 Filed 12–13–21; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2017–0016]

FSIS Guidelines for Small and Very Small Meat and Poultry Establishments Regarding Cooking and Stabilization in Meat and Poultry Products (Previously Referred to as Appendices A and B)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of availability and response to comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the availability of two updated guidelines for meat and poultry establishments concerning the destruction of *Salmonella* and other pathogens during cooking of ready-to-eat (RTE) meat and poultry products (lethality) and the control of the growth of spore-forming Clostridial pathogens in heat-treated RTE and not-ready-to-eat (NRTE) meat and poultry products during cooling and hot-holding (stabilization). The updated guidelines reflect changes made in response to comments received on the 2017 versions of these guidelines.

DATES: On December 14, 2022, FSIS will verify that establishments that had been using the 1999 and 2017 versions of Appendix A and B are instead using the 2021 updated versions of the guidance or have identified alternative scientific support for their cooking and stabilization processes, making changes to their HACCP systems as needed.

ADDRESSES: Downloadable versions of the guidelines are available to view and print at *https://www.fsis.usda.gov/guidelines/2017-0007* and *https://www.fsis.usda.gov/guidelines/2017-0008* once copies of the guidelines have been published.

FOR FURTHER INFORMATION CONTACT: Rachel Edelstein, Assistant Administrator, Office of Policy and Program Development; Telephone: (202) 205–0495.

SUPPLEMENTARY INFORMATION:

Background

On June 16, 2017, FSIS announced the availability of and requested comments on revisions to two guidance documents, originally published in 1999: The *FSIS Salmonella Compliance Guideline for Small and Very Small Meat and Poultry Establishments that Produce Ready-to-Eat (RTE) Products and Revised Appendix A* and the *FSIS Compliance Guideline for Stabilization (Cooling and Hot-Holding) of Fully and Partially Heat-Treated RTE and NRTE Meat and Poultry Products Produced by Small with Very Small Establishments and Revised Appendix B* (82 FR 27680). These guidelines describe best practices for eliminating *Salmonella* from RTE meat and poultry products (lethality) and for preventing or limiting the growth of spore-forming Clostridial pathogens (stabilization) during the cooling or hot-holding of RTE and NRTE meat and poultry products. After reviewing the comments received, the Agency has again revised the guidelines. The revised guidelines are posted at: *https://www.fsis.usda.gov/policy/fsis-guidelines.* A summarized list of major changes to the guidelines appears below.

Many establishments use these processing guidelines as scientific support for the lethality and stabilization procedures in their Hazard Analysis and Critical Control Point (HACCP) systems. When adequately applied to ensure food safety, FSIS has accepted the use of both of these guidelines as scientific support for validating that the establishment's HACCP system for these products meets the regulatory performance standards for lethality (9 CFR 318.17(a)(1), 9 CFR 318.23, 381.150(a)(1)) and stabilization (9 CFR 318.17(a)(2), 9 CFR 318.23(c)(1), 9 CFR 381.150(a)(2), 9 CFR 381.150(b)) in cooked and partially-cooked meat and poultry products. In addition, FSIS has accepted these guidelines as scientific support for validating that the establishment's HACCP system for these products and other RTE and NRTE meat and poultry products not covered by the regulations address Salmonella and Clostridial pathogens. Therefore, establishments may include the guidelines as supporting documentation for decisions in the hazard analysis and for validation (9 CFR 417.5(a)(1)) and 9 CFR 417.4(a)), as well as supporting the selection and development of HACCP system controls (9 CFR 417.5(a)(2)). Establishments may choose to adopt different procedures than those outlined in the Appendix A and B guidelines, but they will need to provide scientific support demonstrating why those procedures are effective. Additional types of scientific or technical support can consist of other published processing guidelines, peer-reviewed scientific or technical data or information, expert advice from processing authorities (provided it does not rely on expert opinion alone), a challenge or inoculated pack study, results of validated pathogen modeling programs, data gathered by the

establishment in-plant, or other best practice guidelines.

Industry Use of the 2021 Guidelines

Although FSIS accepts the use of these guidelines as validated support to achieve adequate lethality and stabilization in certain RTE and NRTE poultry products, an establishment's use of the guidelines does not exempt it from required ongoing establishment HACCP verification activities or expanded FSIS verification or required corrective actions should it produce adulterated products. Additionally, although an establishment may use the guidelines as scientific support for their decisions in developing a HACCP system, the establishment still must meet all the regulatory HACCP requirements, including those for validation. Therefore, if they use the guidelines as scientific support, the establishment needs to follow the critical operational parameters in the guidelines applicable to the product they are producing and the process they are following.

FSIS first revised the 1999 guidelines in 2017 and has again revised them to clarify requirements, provide new options to meet the lethality and stabilization requirements, and to address gaps in the scientific knowledge or newly recognized risks. If an establishment has been using previous versions of this guidance in support of its lethality or stabilization controls, the establishment should review the revisions to the guidance and make any adjustments to its HACCP system necessary to continue producing safe meat and poultry products. Because use of the guidance is voluntary, an establishment can always opt to use alternative sources of scientific support for its lethality and stabilization controls.

As stated above, on December 14, 2022, FSIS will verify whether establishments that had been using the 1999 and 2017 versions of Appendix A and B are instead using the 2021 versions of the guidance or have identified alternative scientific support for their cooking and stabilization processes, making changes to their HACCP systems as needed. At this time, FSIS will consider the older versions of the guidance no longer adequate scientific support for HACCP systems because they are out of date. Inspection program personnel (IPP) will verify establishments are no longer using the 1999 and 2017 versions during performance of the next Hazard Analysis Verification (HAV) Task after December 14, 2022. If IPP have concerns about a technical aspect of the documentation, an Enforcement Investigation and Analysis Officer (EIAO) may be assigned to review the scientific support. EIAOs will also verify that establishments are maintaining adequate scientific support for the design of their HACCP systems during the performance of Food Safety Assessments (FSAs). If an establishment continues to use a rescinded version of the guidance, FSIS will determine whether the establishment has additional supporting documentation that sufficiently supports its decisions concerning the controls in its HACCP system, as well as the HACCP system in operation. In some cases, an establishment may be using portions of the rescinded guidelines that have not changed that continue to be adequate for achieving lethality or stabilization in the products in question.

Processes Not Covered by the Guidelines and Scientific Gaps

Many of the critical operating parameters in these guidelines were originally published as regulatory requirements in the 1980s, then removed from the regulations and revised as guidance in 1999. The original research used to support these critical operating parameters was performed for only a few processed meat and poultry products and was not designed as support for all products and processes. However, FSIS has found that establishments have been broadly applying the critical operating parameters in the guidelines to many products, beyond those they were originally designed to support.

FSIS has determined that the critical operating parameters in the guidelines should not be used as support for some products and processes, because research or outbreaks demonstrate they are insufficient to result in a safe product or because the guidelines were never intended to cover those products (*e.g.,* Fish of the Order Siluriformes). These excluded processes are now clearly identified at the beginning of each document as ''Products and Processes Not Covered by the Guideline.'' For example, FSIS learned through an investigation of a 2018 listeriosis outbreak (Recall 084–2018; [1] CDC: Outbreak of Listeria Infections Linked to Deli Ham) [2] that an establishment was cooking country-cured hams in a sealed bag multiple times using Appendix A as support for each cooking step. Before being cooked multiple times, the ham was salt-cured and dried, thus lowering its water activity. The draining of juices may have resulted in drier conditions during cooking. The establishment used Appendix A as scientific support that the cooking process achieved lethality of pathogens, including *L. monocytogenes.* However, Appendix A guidance was not intended for lower water activity products cooked under dry conditions or for products cooked multiple times. *L. monocytogenes* may survive cooking under these conditions. Hence, the process may not have been lethal to *L. monocytogenes.*

FSIS has stated in the revised Appendix A that the guidance does not cover dried products cooked under dry conditions, because of the food safety concern. Other products that FSIS has determined should not be processed using the critical operating parameters in the Cooking Guideline/Revised Appendix A include: Fish of the Order Siluriformes (*e.g.,* catfish); pork rind pellets, rendered lard and tallow; partially heat-treated not ready-to-eat products; and ready-to-eat products that rely on multi-hurdle processes other than cooking such as fermentation, salt-curing, or drying to achieve lethality. FSIS has included a reference to alternative support establishments may use for many of the processes not covered by the guidelines.

In addition to products clearly not covered by the guidelines, FSIS has identified several common cooking and stabilization processes for which establishments have used Appendix A and B as support, even though these processes cannot achieve the critical operating parameters included in the revised guidelines. Therefore, there is insufficient evidence showing any imminent food safety concern resulting from the continued application of the older recommendations to these processes. For example, during the 2018 listeriosis investigation discussed above, FSIS determined there were establishments cooking salt-cured and dried country cured hams once in the bag without draining the juices. FSIS believes the juices in the bag provide sufficient moisture to rehydrate the surface of the hams and achieve sufficient lethality of pathogens, but there is no research to support this. In addition, FSIS is not aware of *Salmonella* or *Lm* positives or illnesses associated with establishments that use such processes. Therefore, the use of the guidelines for these processes are considered by FSIS to be ''scientific gaps.'' A complete list of the scientific gaps FSIS has identified for each

[1] *See: https://www.fsis.usda.gov/recalls-alerts/johnston-county-hams-recalls-ready-eat-ham-products-due-possible-listeria.*

[2] *See: https://www.cdc.gov/listeria/outbreaks/countryham-10-18/index.html.*

guideline is included in the Summarized List of Changes below.

FSIS is working to fill relevant gaps in the scientific support for these processes and will update the guidelines as data become available. Until such research is complete, an establishment producing products using processes that fall under an identified scientific gap may continue to use the critical operating parameters from older versions of FSIS guidelines that have been included in the revisions. However, the establishment should be aware of a few concerns FSIS has with doing this:

- Use of these critical operating parameters represents a vulnerability because these processes have not been validated to address all hazards of concern.
- If a process deviation occurs for a process that is listed as a scientific gap, it is unlikely an establishment would be able to identify adequate support for product safety without performing product testing.
- If FSIS or the establishment collects a RTE product sample that is positive for a pathogen or the product is implicated in a food safety investigation (*i.e.,* is associated with reports of illness or outbreak), FSIS would verify, as part of the corrective actions (9 CFR 417.3(b)), that the establishment can demonstrate that inadequate lethality or stabilization was not the root cause of the positive sample or the confirmed illness or outbreak, which it would need to do if it wants to continue to use the older recommendation.

Summarized List of Major Changes to the Guidelines

FSIS made the following changes from the 2017 to the 2021 versions of the guidance.

For Appendix A, FSIS made changes to specify:

- The following products are not covered by the guideline: Fish of the Order Siluriformes, pork rind pellets, rendered lard and tallow, dried products processed under dry conditions, partially heat-treated NRTE products, and RTE multi-hurdle products.
- The food safety significance of FSIS's recommendations for relative humidity.
- That relative humidity should be addressed for all cooked products (including poultry) unless the establishment can support that humidity does not need to be addressed. FSIS has not changed the relative humidity options other than re-emphasizing that they apply to all products.
- Additional resources for selecting a relative humidity option when following FSIS's cooking guidance.
- The situations when relative humidity does not need to be addressed, including by providing more information about situations considered to be direct heating (*e.g.,* by clarifying that relative humidity does not need to be addressed for meat patties cooked using FSIS's time-temperature table for meat, if the patties are cooked using direct heat). Previous guidance indicated it did not need to be addressed for meat patties with the assumption all meat patties are cooked using direct heat, which is no longer the case.
- That natural casings become semipermeable during cooking, maintaining moisture in the product, so that additional documentation to address relative humidity is not needed.
- More detailed information for evaluating product safety following a heating deviation. The revision also removes the recommendation for using the ComBase model for *S. aureus* growth (which was not validated) because of the development and validation of the DMRI Staphtox model in 2018.
- Where gaps exist, recommendations from its older cooking guidance can be used until research is completed for:

1. Products cooked for short times at high temperatures.
2. Products cooked using microwave cooking methods that are not designed to control relative humidity.
3. Products cooked using cooking methods that are not designed to control relative humidity.
4. Other processes that may inherently maintain relative humidity around the meat and poultry filling but cannot follow one of the relative humidity options.
5. Processes where the drying step comes before cooking under moist conditions.
6. Products with long heating come-up-times (CUTs).

- That information about a listeriosis outbreak associated with a cooked country-cured ham product and recommendations for establishments that cook a similar product.

For Appendix A, FSIS removed:

- Information about how establishments could remove poultry rolls from the cooking medium before product has achieved the target endpoint temperature and immediately apply another heating or processing method. Since FSIS has clarified that limiting heating CUT is a critical operating parameter for applying any of FSIS cooking guidance (including these older options), the parameter to ''immediately fully cook'' poultry rolls subject to multiple heating mediums and processes has been removed.
- Specific recommendations for conducting a *Salmonella* baseline study on raw source materials as support for using cooking critical operating parameters that achieve a 5-Log reduction in *Salmonella* for meat products instead of a 6.5 or 7-Log reduction. This information was removed since it was interpreted to apply to all establishments when it was only intended for establishments that wanted to support a lower level of pathogen reduction from cooking. In addition, FSIS is not aware of any establishments that have pursued such baseline sampling.

For Appendix B, FSIS included the following changes and additional information:

- Cooling options for products that are cooked to lethality (both RTE and NRTE) are now included in a table (Table 1) and incorporate the previous options, 1, 2, 3 and 4 as options 1.1, 1.2, 1.3 and 1.4.
- Cooling options for both RTE and NRTE products that are cooked to lethality are included in Table 1.
- Cooling options for partially cooked products are included in a separate table and include former Option 1 as Option 2.1 (Table 2).
- Tables 1 and 2 list the critical operating parameters for each option.
- One additional option for partially cooked products, Option 2.2.
- That cooling in stage 1 of Option 1.2 from 120 to 80 °F should occur in ≤ 1 hour.
- That the heating come-up-time (CUT) in Option 2.1 for partially cooked products should be limited to ≤ 1 hour between 50 and 130 °F. FSIS extended the CUT up to 3 hours in Option 2.2 for partially cooked products, if the product meets the critical operating parameters for concentrations of salt, nitrite, and a cure accelerator sufficient for purpose.
- New Options 1.5–1.8 that provide additional cooling time during the first stage of cooling.
- That to use Option 1.3, establishments should incorporate at least 250 ppm sodium erythorbate or ascorbate, along with at least 100 ppm ingoing sodium nitrite (either from a purified or natural source such as celery powder).
- That natural sources of nitrite and ascorbate should not be mixed with purified or synthetic sources.
- FSIS removed the recommendation to cool from 120 to 80 °F in 2 hours in Option 1.4 and replaced it with the critical operating parameter that the

process cause a continuous drop in product temperature.

- To support all the cooling options, additional research and modeling results using up-to-date validated cooling models are included in Attachment B3, FSIS's Predictive Microbial Modeling Support for 1-Log Cooling Options.
- To support common bacon and scrapple processes, FSIS updated references to research in Attachment B8, Using Journal Articles to Support Alternative Stabilization or Cooling Procedures to address comments requesting support for these processes.
- Practical recommendations for improving product cooling in Attachment B4, Steps an Establishment Can Take to Cool Products More Rapidly.
- Where gaps exist, recommendations from its older cooling guidance can be used until research is completed for:

1. Large mass non-intact products that cannot cool quickly enough to follow the new options in Table 1.
2. Partially heat-treated, smoked products that contain nitrite and erythorbate or ascorbate and have long heating come-up and cooling times and cannot follow the options in Table 2.
3. Smoked bacon, that contains nitrite and erythorbate/ascorbate that cannot use Option 1.3 because lethal time and temperature combination is achieved but relative humidity is not addressed.
4. Immersion or dry-cured products that contain nitrite and use equilibration time instead of erythorbate or ascorbate but cannot meet cooling options without nitrite in Table 1 (for products cooked to full lethality) or Table 2 (for products not cooked to full lethality).
5. Products that contain nitrite and use equilibration time instead of erythorbate or ascorbate, but do not have a brine concentration of ≥ 6% to meet Option 1.4.
6. Scalded offal that cannot cool quickly enough to follow the new options in Table 2.

For Appendix B, FSIS removed:

- Specific recommendations for obtaining a waiver to permit 2-Log growth of *C. perfringens* during cooling. This information was removed since it was interpreted to apply to all establishments when it was only intended for establishments that wanted to support a lower level of spores in their source product. In addition, FSIS has not received any waiver requests, but establishments may request a waiver in the future (9 CFR 303.1(h) and 9 CFR 381.3(b)).

In addition to these specific changes, FSIS reorganized both Appendix A and B for clarity. Both guidelines are organized to provide establishments with an overview of topics related to the safe cooking and cooling of meat and poultry products in the main body of each document, with additional details about each topic included in attachments. To use the guidelines, FSIS recommends that establishments first read the overview of each of the topic areas and then consult relevant attachments if more detail is needed.

The guidelines also are organized so that the main body contains critical operating parameters that establishments may choose to use as scientific support for their cooking and cooling processes. Additional recommendations, including some alternative options, are provided in the attachments. The information provided in the attachments is not sufficient to use as sole support. Establishments must provide additional documentation. For example, both Appendix A and B include attachments that summarize alternative support, such as journal articles for lethality and stabilization. However, the summaries are not adequate scientific support for validation on their own, because they do not contain the details of each study. Therefore, establishments that choose to use a journal article cited in the guidelines as their scientific support must have the full copy of the article on file to support decisions in the HACCP System. These changes were made so that establishments could more easily find FSIS's cooking and cooling recommendations, while also having access to other options and details, if needed.

Comments and FSIS Responses

FSIS received 52 comments and over 250 askFSIS questions on the 2017 revisions to Appendix A and B from individuals, establishments, trade groups, FSIS personnel, academics, a State government, a food safety consultant, and a food technology consultant. Following is a summary of the issues raised in the comments and FSIS's responses.

General Appendix A and B

Comment: One individual asked if the 1999 versions of Appendix A and B will still be acceptable support for existing HACCP plans and requested more information be provided as to why or why not.

Response: As discussed above, FSIS has rescinded the 1999 and 2017 versions of Appendix A and B. These versions are no longer available on the FSIS website. FSIS will verify, one year from the date of this issuance, whether establishments using the guidelines as scientific support are using the updated 2021 version. One of the reasons FSIS updated the 1999 versions of Appendices A and B was because some of the content was out-of-date and could no longer be supported by scientific information. In addition, some of the recommendations were vague and put establishments at risk of producing unsafe product. FSIS had provided clarifications to the recommendations in other documents, but all establishments may not have been aware of this information.

FSIS has incorporated the still valid information from the 1999 guidance into the 2021 version. Therefore, if an establishment is following one of the parts of the 1999 guidance that did not change, and it is still supported by the 2021 version, it can continue to use the new guidance as scientific support and will not need to make changes to its HACCP system or gather new initial in-plant validation data (Element 2 to meet validation requirements), because the critical operational parameters of its process have not changed. However, in some cases, establishments will need to make changes to their HACCP system and gather initial validation data, because the critical operational parameters of their process will need to change.

For example, if the establishment is following Option 2 of Appendix B and had not been monitoring the time product dwelled between 120 to 80 °F to meet validation requirements, the establishment would need, at a minimum, to gather initial validation data to demonstrate that the product could cool between 120 to 80 °F in an hour or less. To meet HACCP plan and verification requirements (including in-plant validation requirements), the establishment should also incorporate these parameters into the critical limits of its Critical Control Point (CCP) and gather data to support that these parameters can continue to be met on an ongoing basis. The one exception is for establishments producing large mass non-intact product greater than 4.5 inches in size or greater than 8 pounds where FSIS has identified a scientific gap. For these processes, establishments can continue to follow the critical operational parameters FSIS has incorporated from the older guidance into the 2021 versions (cooling occurs from 120 to 55 °F in 6 hours or less and chilling is continuous to 40 °F) until additional research is complete.

Comment: One individual requested that FSIS address the difference between guidance and requirements.

Response: As is stated in the ''Purpose'' sections of the guidance,

guidance provides best practices establishments can use to produce safe food under FSIS regulations. The guidelines do not represent requirements that must be met. FSIS has also changed the titles of the documents to remove the word ''compliance'' to better indicate that the document provides recommendations and validated options, not requirements. Therefore, establishments are required to maintain scientific support for their HACCP systems. If establishments use the guidelines as their scientific support, they need to ensure they follow the applicable critical operating parameters in the guidelines.

Comment: One food safety consultant indicated that the introduction should more clearly state what has changed in the revised guidance.

Response: FSIS has added sections to both documents that summarize the changes.

Insufficient Support

Comment: Comments from eight establishments and a State government argue that there is no need for the updated guidelines, as they have been operating without problems using the current guidelines. Two of these commenters stated that they have been through FSAs with no problems. These commenters questioned the need for the updated guidelines, considering that there have been few *Salmonella* outbreaks in fully cooked, ready-to-eat meat products.

Response: As noted above, some of the guidance was outdated and no longer provided adequate scientific support for establishments' HACCP systems, although establishments have continued to use the guidance as scientific support to validate their HACCP systems.

While it is true that some establishments may have had Food Safety Assessments in the past where no issues were found, FSIS determined that there may have also been confusion among FSIS EIAOs in determining whether establishments were following the recommendations in the guidelines. Therefore, FSIS will be providing updated instructions to IPP and EIAOs for verifying cooking and stabilization processes at establishments producing fully cooked and heat-treated products.

FSIS has determined that some small and very small establishments may not have been applying the recommendations from the 1999 versions of the guidelines correctly. Consequently, some products may not have been produced in a manner consistent with these original safe harbor recommendations. For example, as discussed above, during an investigation of a listeriosis outbreak in 2018 that was associated with cooked country-cured ham product, FSIS determined the establishment applied FSIS Appendix A as support for a cooking step when the guidance was not designed for processes where the drying step comes before the cooking step (Recall 084–2018; [3] CDC: Outbreak of Listeria Infections Linked to Deli Ham).[4] FSIS also determined through its verification activities that numerous establishments following Option 2 in the 1999 version of Appendix B (now Option 1.2) were taking two to four hours to cool their product between 120 to 80 °F. The 1999 version of Appendix B stated that when processes took longer than one hour between 120 to 80 °F, ''compliance with the performance standard was less certain.'' However, when pathogen modeling was performed, processes taking two to four hours to cool their product between 120 to 80 °F routinely were found to exceed the recommended performance standard of 1-log growth of *C. perfringens.* There has been one outbreak associated with *C. perfringens* from a commercially produced RTE turkey loaf product, the type of product that can take an extended time to cool between 120 to 80 °F due to its size.[5] FSIS has updated the guidance to decrease risks of future outbreaks associated with these products.

Comment: Comments from several establishments and a trade group expressed concern that issuing the new guidelines will cause economic strain on establishments. Some of the commenters claimed that the updated guidelines will cause slaughterhouses to close, increase tax burdens, raise unemployment, limit customer choice, reduce the quality of products, limit organic and artisanal foods, and harm business growth.

Response: FSIS recognizes the concerns about the economic impact of the revisions to its guidance. Some establishments might need to gather additional support for lethality and stabilization procedures because the guidance did not provide adequate scientific support for their processes. In addition, small and very small establishments often do not have the resources to perform challenge studies or develop additional support on their own. In response to comments on the 2017 version of the guidelines, FSIS has identified research needs related to common procedures and is providing its best recommendations in the updated versions of these guidelines, so that establishments may be able to attain product safety using the recommendations in the 2021 version and maintain scientific support for their HACCP systems, while scientific gaps are being filled. The Agency continues to work with researchers and, once additional research is completed, will provide further guidance for those common products with known gaps to assist small and very small establishments that do not have the technical resources to develop the support on their own.

Comment: A food safety consultant questioned how FSIS came up with the recommendation for 500 samples in Appendix A and B and how it applies to small establishments. The commenter also indicated such sampling would be excessively expensive for small establishments.

Response: FSIS removed from Appendix A specific recommendations for conducting a *Salmonella* baseline study on raw source materials as support for using cooking critical operating parameters that achieve a 5-Log reduction in *Salmonella* for meat products instead of a 6.5 or 7-Log reduction. In addition, FSIS removed from Appendix B specific recommendations for obtaining a waiver to permit 2-Log growth of *C. perfringens* during cooling including by conducting baseline sampling.

Appendix A Comments

FSA Analysis

Comment: One food safety consultant questioned whether the FSA review (from the section titled ''Lessons Learned from RTE *Salmonella* Food Safety Assessments (FSAs)'' in the 2017 guideline) was statistically based, since it included only 16 FSAs out of thousands. The commenter also questioned whether any of the FSAs reviewed had insufficient lethality issues since insufficient lethality was not identified in the summary data.

Response: For the 2017 revision of the guideline, FSIS reviewed a large portion (64%) of FSAs that occurred in response to *Salmonella*-positives in RTE product during 2009–2014. As stated on page 6 of the 2017 guideline, there were 25

[3] *See: https://www.fsis.usda.gov/recalls-alerts/johnston-county-hams-recalls-ready-eat-ham-products-due-possible-listeria.*

[4] *See: https://www.cdc.gov/listeria/outbreaks/countryham-10-18/index.html.*

[5] Centers for Disease Control and Prevention (CDC). 2000. Surveillance of Foodborne-Disease outbreaks—United States, 1993–1997. Morbidity and Mortality Weekly Report, CDC Surveillance Summaries, March 17, 2000. MMWR 49, No. SS–1. Available at: *https://www.cdc.gov/mmwr/preview/mmwrhtml/ss4901a1.htm;* personal communication, R.F. Woron, N.Y. State Department of Health, August 2002.

positive results for *Salmonella* during that time. FSIS reviewed 16 of the FSAs that were performed in response to the positive results, which represented over half of the FSAs and was the number that was available for analysis. The goal of the analysis was to identify practices that may have been contributing factors to *Salmonella* contamination of RTE products. To look for trends, FSIS categorized practices into broad categories such as sanitation issues, HACCP issues, and cross-contamination issues. Some of the HACCP issues identified included inadequate recordkeeping and lack of validation, which may have contributed to insufficient lethality. The number reviewed were sufficient for purposes of developing the guidance.

6-Hour Come-Up-Time

Comment: A food safety consultant asked for support for the heating come-up-time recommendation and associated illnesses.

Response: FSIS recommends that the heating come-up-time be limited to 6 hours or less between 50 to 130 °F primarily to limit outgrowth of *Staphylococcus aureus* (*S. aureus*), which could grow to high levels and produce a heat-stable enterotoxin that would not be destroyed by the cooking step. The six-hour heating come-up-time is supported by pathogen modeling using USDA Agricultural Research Service (ARS) Pathogen Modeling Program and the Therm 2.0 modeling tool. FSIS clarified in the 2021 revision that the six-hour time applies to the time the product is between 50 to 130 °F, so the total amount of time for product to reach an endpoint time-temperature may be longer. The University of Wisconsin also has conducted related research for hams but involving the use of antimicrobials in the formulation of the product. FSIS has included a reference to this research in the revision.

FSIS is aware that establishments preparing some products (*e.g.,* ham or beef brisket) may not be able to follow FSIS's recommendation that the heating come-up-time be limited to 6 hours or less between 50 to 130 °F because of the thermodynamics of the heating process. Therefore, FSIS identified long CUT as a Scientific Gap since support does not exist for many common processes and the Agency is not aware of an imminent public health concern. This gap supports the use of any of FSIS's applicable time-temperature combinations *and* relative humidity, *without* considering CUT as a critical operating parameter until research can be complete.

Comment: Two trade groups indicated FSIS did not provide support for the statement that normal levels of *S. aureus* in meat are 2-log/gram.

Response: FSIS based its determination that normal levels of *S. aureus* in meat are 2-log/gram on results from several baseline studies conducted from 1994–1998 on market hogs, steers and heifers, cows and bulls, broilers, young turkeys, raw ground chicken, ground turkey, and ground beef. Additional studies that support that normal levels of *S. aureus* in meat being 2-log/gram include research by Waldroup (1996), the Institute of Food Technologists (2003), and Doyle and Buchanan (2013). FSIS recognizes that some of these citations use older data.

The baseline studies used to determine that normal levels of S. *aureus* in meat include:

1. Nationwide Pork Microbiological Baseline Data Collection Program: Market Hogs. June 1996;

2. Nationwide Beef Microbiological Baseline Data Collection Program: Steers and Heifers. January 1994;

3. Nationwide Beef Microbiological Baseline Data Collection Program: Cows and Bulls. February 1996;

4. Nationwide Broiler Chicken Microbiological Baseline Data Collection Program. April 1996;

5. Nationwide Young Turkey Microbiological Baseline Data Collection Program. August 1998;

6. Nationwide Raw Ground Turkey Microbiological Survey. May 1996;

7. Nationwide Federal Plant Raw Ground Beef Microbiological Survey. April 1996;

8. Nationwide Raw Ground Chicken Microbiological Survey. May 1996;

9. Doyle, M.P., and R.L. Buchanan (ed.). 2013. Food microbiology: Fundamentals and Frontiers—4th ed. ASM Press, Washington, DC.;

10. Institute of Food Technologists (IFT). 2003. Evaluation and Definition of Potentially Hazardous Foods. Comprehensive Reviews in Food Science and Food Safety. Vol. 2 (Supplement, 2003).; and

11. Waldroup, A.L. 1996. Contamination of raw poultry with pathogens. World's Poultry Science Journal. 52:7–25.

Poultry Time-Temperatures

Comment: One individual asked if there is a holding time of 160 °F for cooked poultry rolls and other cooked poultry products (as recommended in the Poultry Time-Temperature tables that were incorporated into the 2017 *Salmonella* guideline and Revised Appendix A) or if an instantaneous temperature of 160 °F (recommended final temperature from the 1999 version of Appendix A, incorporated into the 2017 *Salmonella* guideline and revised Appendix A) would meet the performance standard to achieve a 7-log reduction in Salmonella 9 CFR 381.150(a)(1). Also, FSIS has received many questions from FSIS personnel and establishments expressing confusion about whether temperatures in the Poultry Time-Temperature tables included in the 2017 revision of the *Salmonella* Compliance Guideline and Revised Appendix A and that have a dwell time of <10 seconds are considered instantaneous temperatures.

Response: The recommendation from the 1999 version of Appendix A to cook poultry rolls and other cooked poultry products to an instantaneous temperature of 160 °F can be applied to any poultry product (not just cooked poultry rolls and breakfast strips). FSIS has maintained this option because there have not been any reports of illnesses or outbreaks tied to establishments that follow it. However, the options in the Poultry Time-Temperature Tables (which include dwell times at 160 °F that vary based on species and fat content) have been validated with updated research to address species and fat content as critical operating parameters to ensure adequate Log reductions of *Salmonella.* Applying the cooked poultry rolls option (160 °F instantaneous) may achieve the same Log reductions as the time-temperature combinations in the Poultry Time-Temperature Tables, particularly when applied to a lean product, because the product may be maintained at 160 °F for the recommended dwell times (between 13.7 to 26.9 seconds depending on species and fat) during the time it takes to complete temperature monitoring. FSIS recommends establishments monitor the dwell time in the Poultry Time-Temperature Tables as opposed to relying on the older guidance for cooked poultry rolls (160 °F instantaneous) to better assure safety. If an establishment is using the older guidance for cooked poultry rolls (160 °F instantaneous) and FSIS collects a RTE sample that is positive for *Salmonella* or if the establishment is implicated with a food safety investigation (*i.e.,* is associated with reports of illness or outbreak, FSIS will review and determine the adequacy of the establishment's corrective actions (taken under 9 CFR 417.3) to address process deviations. The establishment will need to show FSIS that inadequate lethality was not the root cause of the process deviation if it wants to continue to follow the cooked poultry rolls option. FSIS continues to consider the temperatures in the Poultry Time-Temperature table with a dwell time of <10 seconds to be instantaneous. To reduce confusion and to be consistent with the time-temperature guidance for

meat products, FSIS has changed the dwell time to zero seconds to indicate those temperatures that are instantaneous.

Lethality Performance Standards and Recommendations

Comment: A trade group, an establishment, and a food safety consultant questioned why the guidance recommends that establishments, including small and very small processors, identify the reduction of generic *Salmonella* in their process to address foodborne illness hazards. The commenters indicated that not all serotypes of *Salmonella* are known to cause illness and *Salmonella* is naturally occurring in poultry and swine. The commenters also mentioned that receiving a *Salmonella*-positive does not necessarily mean there is potential for human illness.

Response: If FSIS finds viable pathogens of concern, including *Salmonella,* in any ready-to-eat product, FSIS considers that product to be adulterated. The Agency does not make a distinction among serotypes of *Salmonella.* As stated by the commenters, *Salmonella* is naturally occurring in raw products, such as poultry and swine. RTE meat and poultry products should not contain any *Salmonella,* because they have undergone a lethality treatment. As stated in the guideline, finding *Salmonella* in RTE products indicates that under-processing, cross-contamination, or addition of contaminated ingredients after the lethality step may have occurred. Although FSIS has a low rate of *Salmonella*-positives in RTE products, *Salmonella spp.* are the second leading cause of foodborne illness in the United States, and meat and poultry products are often associated with outbreaks from *Salmonella spp.*[6] [7]

Comment: A food safety consultant questioned the Agency's determination that a 5-log lethality would not be sufficient for all products, given pathogen levels in source materials, as stated in the guidance. The commenter recommended that FSIS take samples of raw source materials to determine appropriate performance standards for RTE product and recommended a 5-log lethality for all products types.

Response: FSIS has established different pathogen reduction performance standards, both regulatory and recommended, for different products and processes, based on risk assessments. As stated in Appendix A, FSIS requires a 6.5-log reduction of *Salmonella* in cooked beef, corned beef, and roast beef per 9 CFR 318.17, and has recommended that establishments achieve at least a 6.5 log reduction of *Salmonella* in other cooked meat products. The requirements in 9 CFR 318.17 were promulgated based on the results of the 1998 *Lethality and Stabilization Performance Standards for Certain Meat and Poultry Products: Technical Paper.* FSIS also supports its recommendations for products that do not fall under a performance standard using the ''Risk Assessment of the Impact of Lethality Standards on *Salmonellosis* from RTE Meat and Poultry Products, 2005 (*Salmonella* Risk Assessment),'' [8] which showed that a 5-log reduction of *Salmonella* (instead of a 6.5 log reduction) would result in a greater risk of illness in cooked meat products. The FSIS *Salmonella* Risk Assessment also found that there would not be a significant increase in the cases of salmonellosis if the processing of jerky and other shelf-stable products achieved a 5.0-log instead of 7.0-log lethality. Therefore, FSIS recommends a 5.0-log reduction of *Salmonella* in meat and poultry jerky to ensure a safe product. In addition, FSIS has identified various options establishments may use to show that levels of *Salmonella* in product source materials are lower than those found in the FSIS baseline, justifying an alternative lethality other than those required or recommended.

Comment: Two trade groups recommended alternative lethality options should be clear in the text and not just a sidebar and that FSIS should clarify that the codified performance standard requirements allow for an alternative lethality.

Response: FSIS has made the alternative lethality options clearer by moving them from the sidebar into the body of the text. The overview of the lethality requirements for specific RTE products in the guidance also states that the performance standards allow for an alternative lethality.

Ingredients Added Post-Lethality

Comment: One establishment disagreed with recommendations in the guidance related to supporting ingredients added post-lethality are safe and not contaminated. Specifically, the commenter stated that if the ingredients are inspected, they are considered safe and there should be no need for further tests.

Response: FSIS has identified that a common contributing factor to positive pathogen test results, recalls, and outbreaks has been the use of non-meat ingredients added post-lethality to ready-to-eat products. Some non-meat ingredients, such as frozen vegetables, are considered not ready-to-eat by the producing facility and, therefore, should not be added to a ready-to-eat product without support for the safety. FSIS verifies all ingredients and other articles used in the preparation of any meat or poultry product shall be clean, sound, healthful, wholesome and otherwise such as will not result in the product being adulterated (9 CFR 318.6 9 CFR 424.21). To verify that the non-amenable components will not adulterate the product, FSIS verifies that establishments have considered any potential food safety hazards at the step in the process where the non-meat ingredient is received into the food safety system and documents any controls it needs to support its decisions (9 CFR 417.5(a)(1)) about those hazards.[9] To provide this support, establishments have flexibility and do not have to only rely on testing. Alternatively, they can maintain other supporting documentation demonstrating that the ingredients, such as spices, have been treated by processes to kill pathogens (*e.g.,* irradiation, ethylene dioxide, steam treatment of spices), or they can apply a lethality treatment to the ingredients (*e.g.,* cook the sauce of a pork BBQ).

Casing Types

Comment: Two trade groups questioned FSIS's decision to consider natural casings as permeable, therefore requiring humidity during cooking. One commenter recommended that FSIS define permeability based on water-holding capacity, which would result in natural casings being either semi-permeable or impermeable. Another commenter stated that both cellulose and natural casings are considered permeable.

Response: Natural casings made from animal gastrointestinal tracts are typically considered permeable, and

[6] Scallan, E., Hoekstra, R.M., Angulo, F.J., Tauxe, R.V., Widdowson, M., Roy, S.L., Jones, J.L., and P.M. Griffin. 2011. Foodborne Illness Acquired in the United States—Major Pathogens. Emerging Infectious Diseases. 17(1): 7–15.

[7] Interagency Food Safety Analytics Collaboration. Foodborne illness source attribution estimates for 2016 for *Salmonella, Escherichia coli* O157, *Listeria monocytogenes,* and *Campylobacter* using multi-year outbreak surveillance data, United States. GA and DC: U.S. Department of Health and Human Services, CDC, FDA, USDA–FSIS. 2018.

[8] Risk Assessment of the Impact of Lethality Standards on Salmonellosis from Ready-to-Eat Meat and Poultry Products. 2005. Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC.

[9] FSIS Directive 7111.1—Verification Procedures for Lethality and Stabilization (*usda.gov*).

many establishments take advantage of their permeability to produce dried products or smoked products. However, FSIS recognizes that the permeability of natural casings may be reduced depending on how they are used. Most cooking processes likely reduce the permeability of natural casings early in the process so that humidity around the product is inherently maintained throughout cooking and does not have to be added or monitored. According to Sebranek (2010),[10] establishments often apply smoke early in the process while the natural casing is still moist and permeable to the smoke. Prior to smoke application, the casing surface should be ''tacky'' or ''sticky.'' After smoke deposition and color development, further cooking denatures the proteins in the casing, reducing permeability to the point that later cooking can be applied without great moisture loss from the product. However, most drying processes use lower temperatures and address relative humidity to maintain casing permeability so that moisture can evaporate. This information has been included in the 2021 guidance. In addition, FSIS revised the 2021 guidance to indicate cooking product in any casing that holds moisture (*e.g.,* natural casings, cellulose casings, collagen casings, fibrous casings and plastic casings (sometimes called ''synthetic'' casings)) is considered a situation when relative humidity does not need to be addressed.

Although most cooking processes likely result in reduced permeability of natural casings early in the cooking process, little research has been performed to study the critical operational parameters that impact the reduction of permeability, such as the length of the initial smoke application step, cooking temperature, total cooking time, use of steam, size of casings, composition of sausage batter, etc. Therefore, without additional research, the log reduction of *Salmonella* is less certain if meat or poultry products in natural casings are cooked using one of the time-temperature parameters in Appendix A without following one of the humidity options. Therefore, FSIS has identified this issue as a research priority and, if additional data becomes available, FSIS may change the recommendation that establishments do not need to address relative humidity when products are cooked in a natural casing.

[10] Sebranek (2010). Natural vs. Artificial Casings: Evaluating Which is Best for Your Product. Meatingplace.

Relative Humidity

Comment: FSIS has received several questions from FSIS personnel and establishments concerning the need for adding humidity to the process for all products covered in the cooking guideline. Several commenters stated that no *Salmonella* outbreaks have occurred recently, so the recommendation to apply relative humidity to all products is unfounded.

Response: FSIS agrees that humidity does not always need to be added and identifies situations in the updated guidance where relative humidity does not need to be addressed. These situations have now been incorporated into the 2021 guidance. For example, establishments producing products that weigh 10 pounds or more that are cooked in an oven that is 250 °F or higher, or products that are cooked-in-bag where moisture is inherently maintained, would not need to apply humidity. However, FSIS considers maintaining relative humidity to be an important critical operational parameter for many processes to achieve surface lethality of pathogens. In the 2021 version of Appendix A, the Agency summarizes additional approaches for achieving surface lethality of pathogens that establishments can use.

In the 2017 and 2021 versions of Appendix A and in the *FSIS Compliance Guideline for Meat and Poultry Jerky Produced by Small and Very Small Establishments,* FSIS identified the two primary goals of relative humidity in the cooking environment. The first goal is to reduce surface evaporation and the energy or heat that evaporation removes during heating. The second goal is to keep the product surface (and any pathogens) moister and prevent unwanted concentration of solutes as a result of drying. As water is removed from a product because of surface evaporation, remaining solutes become more concentrated. As moisture evaporates from the surface, and the concentration of solutes increases, the water activity is reduced. Consequently, this leads to microbial heat tolerance, especially for *Salmonella.* In response to comments, FSIS has referenced additional articles that establishments can use to support their processes.

Although outbreaks have not occurred recently from *Salmonella* in RTE products, several occurred in the late 1970s and early 1980s, prior to the implementation of FSIS's cooking recommendations. Following a series of salmonellosis outbreaks in beef in 1977, USDA published an emergency rule prescribing a minimum temperature of 145 °F for cooked beef and roast beef. In response to comments from industry as well as research by Goodfellow and Brown (1978), USDA expanded the temperature and time regulations to allow for more combinations validated to achieve a 7-log reduction in *Salmonella.*[11] At that time, the Agency also expanded the regulation to cooked corned beef based on Agency testing data and findings suggesting the potential for undercooking (47 FR 31856). Following these changes, several additional salmonellosis outbreaks were linked to the consumption of roast beef produced by four separate establishments in the northeastern United States. Epidemiologic investigations revealed that inadequate cooking times and temperatures were not the major contributing factors, and research at the time identified relative humidity as an important parameter during cooking. Outbreaks may have occurred because establishments were not adequately accounting for or applying humidity. Because of these outbreaks and the scientific research demonstrating that *Salmonella* may become tolerant to heat if low humidity is used,[12] [13] [14] [15] the guidance continues to recommend that establishments apply humidity during the cooking process.

Comment: Six commenters, including a food technology consultant, academics, and establishments, questioned the older research used to develop Appendix A times/temperatures. Three commenters indicated research by Blankenship (1978) [16] and Goodfellow and Brown (1978) should not be used as support for requiring humidity. The commenters argued that the paper identified surviving *Salmonella* on the surface and hypothesized that this was due to heat tolerance from drying but did not test the humidity options FSIS uses. One

[11] Goodfellow, S.J. and W.L. Brown. 1978. Fate of Salmonella Inoculated into Beef for Cooking. Journal of Food Protection. 41:598–605.

[12] Goodfellow, S.J. and W.L. Brown. 1978. Fate of Salmonella Inoculated into Beef for Cooking. Journal of Food Protection. 41:598–605.

[13] Carlson, T.R., Marks, B.P., Booren, A.M., Ryster, E.T., and A. Orta-Ramirez. 2005. Effect of Water Activity on Thermal Inactivation of Salmonella in Ground Turkey. Journal of Food Science: 70(7): 363–366.

[14] Goepfert, J.M., I.K. Iskander and C.H. Amundson. 1970. Relation of the heat resistance of salmonellae to the water activity of the environment. Appl. Microbiol. 19(3):429–33.

[15] Gruzdev, N., Pinto, R., and S. Sela. 2011. Effect of desiccation on tolerance of *Salmonella enterica* to multiple stresses. App Environ Microbiology 77 (5):1667.

[16] Blankenship, L.C., 1978. Survival of a *Salmonella typhimurium* experimental contaminant during cooking of beef roasts. *Applied Environ Microbiol,* 35(6):1160–1165.

commenter stated that there is a lack of current research data supporting the need for 90% relative humidity. The commenter also indicated 90% relative humidity is excessive, is not supported scientifically for *Salmonella* lethality, and cited an article by Mann and Brashears (2007) [17] that supported less humidity.

Response: New research regularly continues to support the underlying concepts found in the research studies used to develop the recommendations in Appendix A. FSIS agrees that the research by Blankenship and by Goodfellow and Brown hypothesized that *Salmonella* on the surface of the product became more heat tolerant than those in the interior of the product. However, their research demonstrated that adding steam to the cooking process resulted in no survival of *Salmonella* on the surface of the product, demonstrating the effectiveness of moist cooking. Newer research supports that dehydration of *Salmonella* induces tolerance to stressors, including dry heat. In addition, research by Boles et al. (2004) [18] demonstrated that sealing the oven (closing dampers) for one hour at the beginning of the cooking process was more effective than opening the dampers. FSIS is not aware of other newer research supporting the relative humidity options; however, newer research has been performed that supports the cooking times and temperatures in Appendix A. Therefore, FSIS continues to cite the older articles that were used as a basis for these recommendations and is continuing to seek additional research to add to the relative humidity options.

Specifically, Goodfellow and Brown's research showed greater survival of *Salmonella* inoculated on the surface of dry-roasted beef rounds than those in the interior. Research conducted by the Agricultural Research Service (ARS) and published by Blankenship in 1978 and 1980 [19] substantiated this finding. In response to several outbreaks and research findings, FSIS issued an interim final rule in 1982 and finalized it in 1983 to address the handling, processing, cooling times and temperatures, and storage requirements necessary to ensure the wholesomeness of cooked roast beef. When the rule was finalized, FSIS added two options to the regulations for maintaining relative humidity that did not need to achieve 90% relative humidity for those products cooked to an internal temperature of 145 °F or above. These options were to seal the oven or continuously introduce steam for 50% of the cooking time or one hour, whichever was longer. Although these exact options were not tested in the literature, FSIS used the research conducted by Goodfellow and Brown and Blankenship, along with expert opinion, to develop options that were practical and could be implemented by small and very small establishments. These options were designed to have a safety margin to ensure their effectiveness when applied to a wide variety of processes.

Newer research by McMinn et al. (2018) supports the time-temperature parameters in Appendix A to achieve sufficient reductions of *Salmonella.*[20] The research by McMinn et al. (2018) was conducted with product cooked in vacuum sealed bags, supporting the importance of cooking in a high moisture environment (that is 90% relative humidity). However, FSIS agrees 90% relative humidity is not needed in all cases. As stated previously, FSIS has provided additional relative humidity options for products cooked to an internal temperature of 145 °F or above to include sealing the oven or introducing steam for 50% of the cooking time or one hour, whichever is longer. Research by Boles et al. (2004) supports the use of a sealed oven for maintaining relative humidity and other research does continue to support the importance of moisture during cooking. For example, research cited by commenters in Mann and Brashears (2007) supports the need for at least 30% relative humidity during cooking. This is consistent with the minimum amount of relative humidity the Agency believes is present when establishments seal the oven or introduce steam, based on FSIS's knowledge of establishments' processes, suggesting that these practical recommendations result in adequate relative humidity. The Agency is also not aware of any establishments that have had *Salmonella*-positives or been associated with a salmonellosis outbreak when following FSIS's temperature, time, and relative humidity guidance. Therefore, FSIS has updated the guidance to include a discussion of the research by Mann and Brashears (2007). The discussion outlines how the article supports the need for at least 30% relative humidity during cooking of roast beef, an amount the Agency believes is maintained when the oven is sealed, or steam is introduced suggesting these practical recommendations result in adequate humidity.

Comment: A food technology consultant and an academic referenced scientific support for cooking recommendations other than those recommended in Appendix A. Specifically, the commenters referenced a study by Sindelar et al. (2016) [21] supporting a wet-bulb time-temperature combination that may be a suitable replacement for the relative humidity recommendations during smokehouse processing.

Response: FSIS agrees with the commenters that the research conducted by Sindelar et al. (2016) contains scientifically-based thermal processing parameters to ensure sufficient reductions of *Salmonella* and other pathogens of concern during cooking. For this reason, this reference was included in the revised guideline as a journal article that may be used as alternative support. FSIS also generally agrees with the concept of a surface lethality step or surface lethality treatment that relies on wet-bulb temperature to demonstrate how lethality is being achieved on the surface. However, FSIS does not consider the research sufficient to support applying a single wet-bulb temperature as a replacement for the current relative humidity options because of the limited treatments studied.

The research conducted by Sindelar (2016) provides scientific support for alternative processes including use of a wet-bulb temperature target. However, the researchers only evaluated reduction achieved for limited products under limited conditions. Therefore, establishments may choose to use this research as scientific support for their process, provided the critical operational parameters are met and the parameters chosen were ones that were tested in the laboratory to ensure

[17] Mann, J.E. and Brashears, M.M. 2007. Contribution of Humidity to the Lethality of Surface-Attached Heat-Resistant Salmonella during the Thermal Processing of Cooked Ready-to-Eat Roast Beef. Journal of Food Protection (70): 3: 762–765.

[18] Boles, Neary, and Clawson. 2004. New intervention and validation for the control of pathogens in the processing of jerky. Report available at: *https://www.fsis.usda.gov/sites/default/files/media_file/2021-08/C-11_New_Technology_FY2004_Final_Report.pdf.*

[19] Blankenship, L.C., Davis, C.E., and G.J. Magner. 1980. Cooking methods for elimination of Salmonella typhimurium experimental surface contaminant from rare dry-roasted beef roasts. Journal of Food Science. 45(2): 270–273.

[20] McMinn, R.P., King, A.M., Milkowski, A.L., Hanson, R., Glass, K., and J.J. Sindelar. 2018. Processed Meat Thermal Processing Food Safety Generating D-Values for Salmonella, Listeria monocytogenes, and Escherichia coli. Meat and Muscle Biology. 2(1): 168–179.

[21] Sindelar, J.J., Glass, K., and B. Hanson. 2016. Investigating the Development of Thermal Processing Tools to Improve the Safety of Ready-to-Eat Meat and Poultry products. NAMIF Final Report.

sufficient reductions of *Salmonella* based on the establishment's desired target. Critical operational parameters identified in the research include the product type, thermal process schedule (dry-bulb temperature, wet-bulb temperature, and time at each stage), and final internal product temperature and time.

As stated above, FSIS is not replacing the time-temperature recommendations in Appendix A with those identified in the Sindelar research. FSIS's recommendations allow for temperatures ranging from 130 to 160 °F for meat and 136 to 165 °F for poultry and apply to all types of products and thermal processing schedules, provided a relative humidity option can be met. Because the research conducted by Sindelar only applies to certain products and processes, it cannot be used by all establishments. In addition, the researchers were not able to achieve a 5-log reduction of *Salmonella* in chicken tenders even at the highest internal temperature tested of 175 °F with a wet-bulb of 160 °F. FSIS's relative humidity options in Appendix A applies to all meat and poultry products covered by the FSIS guidance. For these reasons, FSIS has added references to Sindelar's research to the guideline but has not used it to replace Appendix A humidity options.

Comment: One food technology consultant stated that the options for products cooked in less than one hour are too restrictive and that a low relative humidity process may be more lethal if it has a higher wet-bulb, citing research by Buege et al. (2006).[22] The commenter offered an alternative recommendation: Products cooked in less than one hour in a high temperature impingement or spiral oven must use a wet-bulb temperature of 160 °F or higher for the entire process.

Response: FSIS agrees that there may be other approaches for demonstrating that surface lethality is achieved for products that are cooked for less than one hour. However, the Agency does not believe that there is enough data at this time to identify one target wet-bulb temperature, due to the wide variety of products and processes that are addressed in Appendix A. The Agency also does not believe there is enough research at this time to apply FSIS' recommendations that rely on less than 90% relative humidity (that is sealing the oven or continuously introducing steam) to products that are cooked for less than one hour). The Agency is seeking more research related to this issue and will consider additional information as it becomes available.

The relative humidity recommendations were originally intended to be options for cooking large mass products such as cooked beef (*i.e.,* brisket), roast beef, and cooked corned beef. Cooking time for such large mass products typically exceeds one hour, so FSIS's relative humidity recommendations were intended to be applied for at least one hour or more. However, in response to a series of outbreaks associated with beef jerky, including a 2003 outbreak from *Salmonella Kiambu,* FSIS added its recommendation to apply 90% relative humidity throughout cooking for processes when the cooking time is one hour or less in the 2007 *Compliance Guideline for Meat and Poultry Jerky Produced by Small and Very Small Establishments* (updated in 2014)as well as the revised Appendix A. FSIS added this recommendation because one potential cause of the 2003 *Salmonella* Kiambu outbreak in jerky was the very slow drying process under low humidity conditions (1% Relative Humidity—82 °C dry-bulb, 30 °C wet-bulb), which allowed *Salmonella* organisms to dehydrate during drying and become tolerant to heat.

FSIS recognizes that over time, many journal articles have been published increasing the scientific understanding of the critical role of certain parameters during jerky processing, including relative humidity. FSIS also recognizes that many of these articles, including that by Buege et al. (2006), support the use of less than 90% relative humidity, and the Agency does not object to establishments using these articles as scientific support, provided the critical operational parameters match the actual process being used. FSIS has included several articles establishments may use as scientific support for less than 90% humidity in the revised guideline. FSIS did not add the specific recommendation for use of wet-bulb to measure the temperature of products cooked for less than one hour in a high temperature impingement or spiral oven because, as explained earlier, FSIS does not believe there is enough information at this time to make a general recommendation that a single wet-bulb temperature can be used in addition to or in place of its relative humidity options.

Comment: A food technology consultant stated that the citations used by the Agency did not establish the premise that low humidity cooking of meats increases concentrations of salt and sugars and will lead to increased heat tolerance of pathogens. The commenter also contended that the Goepfert research cited by FSIS is of limited use to the meat industry because it was conducted with sugar-water solutions for the candy industry. The commenter recommended FSIS replace the citation with papers by Buege et al. (2006), Boles et al. (2004), and Sindelar et al. (2016).

Response: FSIS agrees that these additional research citations support the importance of relative humidity and has added them to the revised guidance. In addition to these references, the increase in heat tolerance of microorganisms as water activity is reduced is well established in the literature.[23] [24] [25] [26] While FSIS referenced work by Geopfert that was performed with sugar solutions, the same findings have been found for meat and poultry products. For example, Carlson et al. (2005) found that thermal inactivation of *Salmonella* decreased 64% when decreasing meat water activity from 0.99 to 0.95.

Comment: One establishment included a scientific paper by Carotenuto and Dell'Isola (1995),[27] stating that the calibration of equipment for relative humidity is poor.

Response: Accurate measurement is critical to ensuring that safe products are produced under the critical operational parameters of an establishment's HACCP system. Calibration also is important in maintaining accuracy over time. Often the owner's manual for humidity recorders recommends calibration on an annual basis, and FSIS recommends that establishments should follow the manual's instructions for calibration. Frequent calibration is the only way to know the humidity sensor is accurate. Concerns about lack of calibration have contributed to process deviations and recalls in the past. Frequent calibration

[22] Buege, D.R., G. Searls, and S.C. Ingham. 2006. Lethality of commercial whole-muscle beef jerky manufacturing processes against *Salmonella* serovars and *Escherichia coli* O157:H7. *Journal of Food Protection.* 69: 2091–2099.

[23] Carlson, T.R., Marks, B.P., Booren, A.M., Ryster, E.T., and A. Orta-Ramirez. 2005. Effect of Water Activity on Thermal Inactivation of Salmonella in Ground Turkey. Journal of Food Science: 70(7): 363–366.

[24] Goepfert, J.M., I.K. Iskander and C.H. Amundson. 1970. Relation of the heat resistance of salmonellae to the water activity of the environment. Appl. Microbiol. 19(3):429–33.

[25] Blankenship, L.C. 1978. Survival of a Salmonella typhimurium experimental contaminant during cooking of beef roasts. Appl. Environ. Microbiol. 35:1160.

[26] Gruzdev, N., Pinto, R., and S. Sela. 2011. Effect of desiccation on tolerance of *Salmonella enterica* to multiple stresses. App Environ Microbiology 77 (5):1667.

[27] Carotenuto, A. and Dell'Isola, M. 1995. An Experimental Verification of Saturated Salt Solution-Based Humidity Fixed Points. International Journal of Thermophysics: 17(6): 1423–1439.

and following equipment manufacturer instructions should address any concerns about inadequate calibration of equipment for relative humidity.

Appendix B Comments

Stabilization Performance Standards and Recommendations

Comment: Two industry groups contended that parts of the guideline were inconsistent, because the Agency stated in some sections that ''no growth'' of *Clostridium botulinum* is acceptable, while other sections state that ''net growth ≤ 0.30'' is acceptable. The commenters requested that this aspect of the guideline be clarified.

Response: The performance standard requirement is that there can be no multiplication of toxigenic microorganisms, such as *Clostridium botulinum* (9 CFR 318.17(2), 9 CFR 318.23(b)(3)(ii)(c), 9 CFR 381.150(a)(2), 9 CFR 318.23(C)(1), and 9 CFR 381.150(b)). However, FSIS realizes that existing predictive models, such as the ARS *C. botulinum* in beef broth model, do not predict no (zero) growth. As a practical way to evaluate cooling deviations, the Agency has regarded a predicted growth of no more than 0.3 logs (an approximate doubling, or one generation) as an indication that there has been no growth. FSIS has clarified this in the guidance.

Cooling Options

Option 1

Comment: Thirteen comments from producers, industry groups, a consultant, and an academic stated that validation options for partially-cooked products have unnecessarily been narrowed in Option 1. One commenter expressed concern with the recommendation that the come-up-time be limited to one hour or less, as the come-up-time is longer for partially-cooked smoked sausages. Two commenters asked for clarification for what constitutes ''small diameter'' for the purposes of following Option 1 and asked for the definition of ''come-up-time.''

Response: Option 1 was always intended to be the only option for partially-cooked products, but this was not clear in the 1999 version. Therefore, the Agency made this clarification in the 2021 version. When Option 1 was developed, it was primarily for partially-cooked products, such as patties and poultry breakfast strips, which have a short come-up-time of one-hour or less. As establishments used the option for other types of partially-cooked products, the Agency determined that additional clarification was needed. In the 2021 version, the Agency has clarified that the come-up-time should be limited to temperatures between 50 to 130 °F, to better define the recommendation. FSIS has also removed the mention of ''small diameter,'' since that is not a critical operational parameter that effects growth of spore-formers. In addition, FSIS has added an option that allows up to three hours come-up-time between 50 to 130 °F for products that contain at least 150 ppm nitrite and at least two percent salt. This addition provides more time for partially-cooked smoked sausages. This option was designed using industry input provided through askFSIS. The Agency believes that this option will provide support for many partially-cooked smoked sausage processes. Finally, the Agency has provided additional information about research by Taormina and Bartholomew (2005) [28] that supports a longer cooling time for partially-cooked smoked bacon.

Option 2

Comment: A producer and two industry groups requested that FSIS clarify why the recommendation in Option 2 to cool from 120 to 80 °F in one hour or less does not have to be monitored as part of a critical limit. The commenters cited a publicly posted askFSIS Knowledge Article (''Public Q&A''), that is no longer on FSIS's website, as support for this request. Comments from two large producers, a university, a small producer, and a food safety consultant stated that the recommendation to cool products from 120 to 80 °F in one hour or less is too restrictive, too hard to meet for large-diameter products, and would require new equipment for the product to cool fast enough.

Response: FSIS incorporated the language that had been in the askFSIS Knowledge Article (''Public Q&A'') into the guideline. The language had been in a note in the 2017 version. To make the information clearer, FSIS has moved the text in front of the table along with other text that explains how to use FSIS Cooling Options. The language states, ''Establishments are not required to demonstrate that every lot of product is chilled between 120 °F and 80 °F within one hour, if data has been gathered during initial validation and as part of ongoing verification to support the critical operational parameters can be met.'' This language makes clear that establishments do not have to monitor these temperatures as a critical limit. FSIS recognizes that cooling large products from 120 to 80 °F in one hour or less can be challenging.

FSIS has added four new options to the 2021 revision to allow for more time cooling from 120 to 80 °F. Two of the four cooling options consider the pH levels of products to allow even more time between 120 to 80 °F. These options are all supported by two pathogen modeling programs validated for estimating the growth of *Clostridium perfringens:* (1) The ComBase *Perfringens* Predictor and the Smith-Schaffner Model; and (2) the ARS *C. botulinum* cooling model. FSIS has also identified a scientific gap for establishments producing large mass non-intact products greater than 4.5 inches in size or greater than 8 pounds that are unable to cool the products between 120 to 80 °F in one hour or less. For these products, establishments can continue to follow the critical operational parameters FSIS has incorporated from the older guidance into the 2021 versions (cooling occurs from 120 to 55 °F in 6 hours or less and chilling is continuous to 40 °F) until additional research is complete.

Comment: A large producer questioned the use of the article by Ohye and Scott (1957) [29] as support for Option 2, because type E *C. botulinum,* which is a psychotroph and prefers low temperatures for growth, is not a microorganism of concern in meat; and is not a surrogate for *C. perfringens.* The producer also questioned whether the research supported the guidance because it was not conducted on meat.

Response: Option 2 of FSIS Appendix B originated from former regulatory requirements promulgated in the 1983 Final Rule, ''Production Requirements for Cooked Beef, Roast Beef, and Cooked Corned Beef'' (48 FR 24314, June 1, 1983). At that time, the primary hazard of concern identified by the Agency was *C. botulinum.* For this reason, research by Ohye and Scott (1957) was used as the scientific basis of the original recommendation to cool product from 120 to 55 °F in six hours. However, when Appendix B was developed in 1999, the Agency became more aware of the importance of also considering *C. perfringens* growth. Using available research at the time and expert opinion, FSIS added the recommendation that establishments consider the cooling time between 120 to 80 °F, since *C. perfringens* grows faster than C. botulinum. The 1999 guidance was

[28] Taormina, P.J., and Bartholomew, G.W. 2005. Validation of Bacon Processing Conditions to Verify Control of *Clostridium perfringens* and *Staphylococcus aureus.* Journal of Food Protection. 68(9): 1831–1839.

[29] Ohye, D.F. and Scott, W.J. 1957. Studies in the physiology of *Clostridium botulinum* type E. Aust. L. Biol. Sci. 10:85–94.

vague in terms of a recommended timeframe, so FSIS added a more specific time-frame recommendation to the 2017 revision. The recommendation in the 2017 version of Appendix B has been carried over into the 2021 version and confirmed using the following up-to-date pathogen modeling programs: The ComBase *Perfringens* Predictor and the Smith-Schaffner Model to confirm predicted C. *Perfringens* outgrowth; and the ARS *C. botulinum* cooling model to confirm predicted C. *botulinum* outgrowth. FSIS has added these additional modeling references to the 2021 version.

Comment: A small producer recommended that the first part of Option 2 (cooling from 120 to 80 °F in one hour or less) be based on surface temperature instead of the internal temperature of the product. Additionally, another small establishment requested that the recommendation under Option 4 to cool a cured product's internal temperature from 120 to 80 °F in two hours or less be applied to surface temperature. The commenters argued that these recommendations would be consistent with the original recommendation in FSIS Directive 7110.3 (cancelled by FSIS Directive 7111.1) for slow cooling for some cured products (now Option 4), which allowed for monitoring of the surface temperature for the first stage of cooling (cooling from 120 to 80 °F in two hours or less).

Response: FSIS agrees that for intact products, it is possible to monitor the surface temperature of a product to demonstrate that the critical operational parameters of Appendix B are met. It would not be appropriate to use this approach for non-intact products, since pathogens may be internalized and it is important to control the internal temperature, as well as the surface temperature. In response to comments, FSIS has removed the recommendation to monitor the time between 120 to 80 °F from Option 4. The original recommendation in FSIS Directive 7110.3 cancelled by FSIS Directive 7111.1) contained an option to control the product's surface temperature so that it would not stay between 120 to 80 °F for more than two hours or to cause ''a continuous drop in product temperature.'' However, FSIS has determined that the original recommendation was made based on controlling *S. aureus* growth, assuming *S. aureus* presence is due to post-processing contamination and the potential for growth at the surface. After further review, FSIS does not recommend that establishments consider *S. aureus* as a hazard during cooling, provided they maintain sanitary conditions after cooking. Therefore, as stated above, FSIS is removing the recommendation that product be cooled from 120 to 80 °F in two hours. Establishments may continue to follow this option if the product is continuously cooled, without the need to demonstrate any timeframe for cooling between 120 to 80 °F. FSIS expects that establishments previously following the recommendation from FSIS Directive 7110.3 (cancelled by FSIS Directive 7111.1) to control the product's surface temperature should be able to meet this part of the recommendation instead.

Option 3

Comment: An individual provided an article by Taormina and Bartholomew (2005) and stated that the article provided support for Option 3 to be used for not-ready-to-eat products.

Response: The research by Taormina and Bartholomew (2005) provides validated parameters for cooking and cooling partially heat-treated bacon. However, the research does not provide sufficient support for using Option 3 for all not-ready-to-eat partially heat-treated products. This is because the Taormina research included other critical operational parameters that may have limited growth of *S. aureus* and *C. perfringens,* such as smoke, which are not currently part of FSIS's Option 3. Establishments are not required to use FSIS guidance as scientific support. The article by Taormina and Bartholomew (2005) may be used to support the cooking and cooling of partially heat-treated bacon, provided the establishment follows the critical operational parameters or maintains support to justify any differences in parameters. Specifically, the Taormina and Bartholomew research supported that bacon smoked with liquid smoke could be heated to 120 °F with a six-hour heating come-up-time and safely cooled from 120 to 80 °F in five hours and 80 to 45 °F in 10 hours (15 hours total cooling time), without presenting a food safety hazard from either *C. perfringens* or *S. aureus.* Other critical operational parameters of this study include the following product composition factors: ≥1.6% salt concentration and ≥2.9% brine concentration. In addition, the brine injected into the bacon contained 0.5% sodium phosphate, 547 ppm sodium erythorbate, and 120 ppm sodium nitrite (based on email correspondence with Dr. Taormina). Although the research was performed with liquid smoke, Dr. Taormina stated that the study also represented natural smoking because the phenolic fraction of smoked bacon derived from liquid smoke is similar to that of traditionally smoked bacon. Therefore, at this time, as indicated in Table 15, Time and Temperature Parameters Reported in the Literature for Stabilization Processes of the guidance, establishments may follow the validated cooling parameters from Taormina and Bartholomew's research for bacon that is naturally smoked. FSIS added a reference to this research to the guidance.

In addition to including this reference, the Agency has also clarified that establishments producing products that have been fully cooked but that they have reclassified into a NRTE HACCP category and labeled accordingly, may follow Option 3. FSIS believes this clarification may allow for the use of this option by establishments that may have previously interpreted the recommendation that the option applied to fully cooked products to mean that it could not be applied to fully cooked products that are labeled as NRTE.

Use of Natural Sources of Nitrite and Ascorbate

Comment: A food safety specialist, an industry group, a large producer, and a small producer stated there is continued confusion over use of natural sources of nitrite. Three industry groups, a small producer and an individual consumer recommended that FSIS clarify, in Appendix B, that both purified and natural sources of sodium erythorbate or ascorbate (*e.g.,* cherry powder) are acceptable to use within Option 3. They also recommended that FSIS clarify that any natural source containing at least 100 ppm of in-going nitrite may be used to replace celery powder. FSIS also received several questions through askFSIS asking if establishments can use natural sources of nitrite along with synthetic sources of ascorbate or erythorbate.

Response: After the 2017 version of the guideline published, the Agency issued three Knowledge Articles (''Public Q&As'') (Part 1 of 3: Use of Celery Powder and Other Natural Sources of Nitrite as Curing Agents, Antimicrobials or Flavorings; Part 2 of 3: Revised Appendix B: Stabilization Option 3 for Products Containing Natural Sources of Nitrite and Natural Sources of Ascorbate or Ascorbic Acid, Part 3 of 3: Formulating Products Containing Natural Sources of Nitrite and Natural Sources of Ascorbate When Using Revised Appendix B: Stabilization Option 3) intended to provide clarification around the use of natural sources of nitrite and ascorbate,

including labeling of products that contain these ingredients, and this information has been incorporated into the 2021 version. As part of these updates, FSIS revised FSIS Directive 7120.1 ''Safe and Suitable Ingredients Used in the Production of Meat, Poultry, and Egg Products'' to include any combination of a natural source of nitrite and a natural source of ascorbate, provided they are used following the minimum and maximum amounts listed in the Directive. In the Knowledge Articles (''Public Q&As'', Directive 7120.1, and the updated guidance, FSIS states that it is not appropriate to use natural sources of nitrite with purified or synthetic sources of erythorbate, as 9 CFR 424.21(c) requires that curing accelerators be used with curing agents.

Comment: FSIS received many questions through askFSIS from establishments as to whether using a natural source of nitrite makes a product ''cured.'' FSIS has also received questions asking whether establishments can select the ''cured'' option, when using the ComBase *Perfringens* Predictor, if natural sources of nitrite and ascorbate are used as antimicrobials.

Response: Adding natural sources of nitrite and ascorbate does not make a product ''cured.'' However, if the ingredients are used at the minimum levels recommended to be considered antimicrobials, establishments may be able to follow the cooling recommendations in FSIS's Option 3, originally designed for ''cured'' products, and may treat products as ''cured'' for pathogen modeling purposes (*i.e.,* by selecting the ''cured meat'' option) as explained in the revised Appendix B. Cultured celery powder and other natural sources of nitrite are approved for use as antimicrobials and flavorings. Neither celery powder (whether in a form containing pre-converted nitrite or when used with a nitrate-reducing bacterial culture) nor other natural sources of nitrite are approved for use in 9 CFR 424.21(c) as curing agents. As with natural sources of nitrite, natural sources of ascorbate (*e.g.,* cherry powder) are approved for use as antimicrobials, but not approved as cure accelerators. Ingredients approved for use as curing agents and cure accelerators are listed in 9 CFR 424.21(c).

Comment: Two small producers, an individual consumer, a large producer, and an industry group contended that Letters of Guarantee (LOGs) provided by their suppliers are sufficient to support the amount of nitrite and ascorbate added from natural sources as necessary to control for *C. botulinum* and *C. perfringens* and that a Certificate of Analysis (COA) for celery powder should not be needed.

Response: FSIS agrees it is possible for establishments to support that they have adequately addressed *C. botulinum* and *C. perfringens* using natural sources of nitrite and ascorbate with a LOG, provided it supports the amount or concentration of nitrite and ascorbate in each lot. Establishments must be able to support the concentrations of nitrite from natural sources in their products (9 CFR 417.5(a)(1)) when using them as antimicrobials, but they do not necessarily need to have a COA. Establishments should be aware that the concentration of nitrite and ascorbate or ascorbic acid from natural sources may vary depending on the source.

As stated in the revised Appendix B, FSIS recommends that establishments use natural sources of nitrite containing pre-converted nitrite, because the quantity of nitrite in the sources is known. When using pre-converted nitrite, establishments may need to request information from their supplier regarding the nitrite level in each lot of product (*e.g.,* through a COA), or they may be able to rely on formulation information from their supplier if the concentration is standardized from lot to lot. If the concentration of nitrite from natural sources is not standardized with each lot and a COA is used, establishments should calculate the amount of the natural source needed to achieve the appropriate nitrite concentration from each lot, as it varies.

Pathogen Modeling

Comment: An individual stated that FSIS does not recognize ARS predictive models and recommended using models that are not from ARS. The commenter also recommended that research be sponsored to support models.

Response: ARS is the research arm of the U.S. Department of Agriculture. Not all of ARS' models have been validated. A validated cooling model is a predictive microbial model whose predictions have been found to agree with or be more conservative than actual observed results. For establishments to rely on pathogen models alone to support decisions in hazard analysis and product disposition, FSIS recommends the models be validated for the particular food of interest. For this reason, FSIS supports the use of the validated ARS models. FSIS does not support the use of models that have not been validated as sole support for decisions in hazard analysis and product disposition because the predictions of the model have not been found to agree with or be more conservative than actual results. If a model has not been validated for a particular food of interest, then establishments need to provide additional supporting documentation to support the results from the model (*e.g.,* sampling data or comparison with other model results) meet the requirements of 9 CFR 417.5(a)(1). Those models that have not been validated remain on the ARS website because they provide useful information to researchers such as initial estimates of growth or death of bacteria. FSIS has identified the ARS models that have been validated, such as the *C. perfringens* in the cooked uncured beef model, the *C. perfringens* in cooked uncured pork model, and the *C. perfringens* in cooked uncured chicken model. FSIS recognizes these validated models for use in supporting decisions in the hazard analysis and product disposition. FSIS has identified one ARS model, the *C. perfringens* in beef broth model, that could not be validated and typically under-predicted the growth of *C. perfringens.* Since the model could not be validated and was being used by establishments as sole support, it has been removed from the ARS website. FSIS continues to work with ARS to further research that supports model development and has listed a research priority on its website to ''develop or refine cooking and cooling models.''

Appendix B Baseline

Comment: A food safety consultant stated that cooked ready-to-eat meat and poultry products are not high-risk foods for *C. perfringens* illness. The commenter argued that the procedures used by industry to chill cooked-products and the time-temperatures that ensure *C. perfringens* is controlled have been adequate. The commenter further mentioned that subsequent handling and preparation in homes, foodservice, and institutions have led to *C. perfringens* illness.

Response: FSIS agrees that most outbreaks associated with *C. perfringens* have resulted from the handling of food served in restaurants, homes for the elderly, or at large gatherings because the products are held at room temperature for too long or cooled in large batches, increasing the time it takes for the entire batch of product to cool. Outbreaks from *C. perfringens* associated with commercially produced meat and poultry products in the U.S. rarely occur likely because of good controls in the commercial setting that have been implemented in response to FSIS's requirements and guidance. As explained above, FSIS updated

Appendix B because the Agency determined some of the old guidance recommendations were vague, putting establishments at risk of producing unsafe product and at risk for recalls. Additionally, some elements of the guidance were misunderstood or overlooked, resulting in FSIS guidance being applied in ways that increased food safety risks to consumers and potential business risks of recalls.

Comment: A food safety consultant commented that the 2005 *C. perfringens* Risk Assessment [30] indicated that data from Greenberg *et al.,* (1966) [31] could not be reliably used for quantitative modeling. The commenter, a co-author on the Greenberg *et al.,* (1996) article, stated that there was a typographical error in the paper on page 789 under ''Sample Preparation,'' stating that the meat suspensions were pasteurized at 60 °C for 15 minutes. According to the commenter, the temperature and time actually used throughout the survey was 60 °C for 50 minutes. The commenter provided documentation to support this statement was an error.

Response: FSIS appreciates the commenter sharing this information. Because the 2005 *C. perfringens* Risk Assessment was performed in response to comments received on a 2001 proposed rule that FSIS did not finalize (66 FR 12589, February 27, 2001), this comment is not relevant to this guidance. FSIS did not use the risk assessment to update the guidance. FSIS is not addressing comments on the risk assessment because it is outside the scope of the guidance.

Comment: The same food safety consultant also commented that the baseline studies FSIS used for its 1998 *Lethality and Stabilization Performance Standards for Certain Meat and Poultry Products: Technical Paper* were not designed for estimating the risk of *C. perfringens* illness. The commenter stated that in 1998, FSIS over-estimated the number of surviving spores in meat and poultry products after cooking to arrive at a worst case of 10^4 CFU/g of spores and did not consider the combined inhibitory effect of salt, nitrite, or other newer ingredients that are commonly used for pathogen control. The commenter also stated that this led to very conservative time-temperatures being recommended for cooling in the 1999 version of Appendix B (*i.e.,* no greater than a 1-log increase in *C. perfringens* as required by 9 CFR 817.17(a)(2), 318.23(b)(3)(ii)(c), and 381.150(a)(2)). The commenter further argued that FSIS does not have credible data on the number of *C. perfringens* spores in raw meat or poultry and that the requirement that limits growth of *C. perfringens* to no greater than a 1-log increase during cooling is not valid. The commenter also stated that Kalinowski et al. (2003) questioned the need for the performance requirement of no more than 1-log growth of *C. perfringens* and suggested that a more appropriate upper limit for growth would be ''no greater than a 2-log increase or no greater than 500/g at the time of shipment.'' Additionally, the commenter argued that the 2017 revision of Appendix B continues to be based on the same assumptions and estimates developed in 1998 and that there is a great need for new data on the concentration of *C. perfringens* spores in commercial blends of meat and poultry before cooking or after cooling.

Response: FSIS relied on levels reported in Agency baseline studies and surveys of *C. perfringens* performance standards in the *Lethality and Stabilization Performance Standards for Certain Meat and Poultry Products: Technical Paper.* However, Agency cooling requirements in the former 9 CFR 318.17(h)(5) and (10) and the cooling recommendations in Directive 7110.3 issued in 1988 to industry (cancelled by FSIS Directive 7111.1) had the effect of limiting *C. perfringens* growth to 1-log even before the 1999 regulation was promulgated. FSIS assumed that the baseline studies and surveys either would substantiate the regulatory performance standard of 1-log or would indicate a need to revise the standard. FSIS assumed that reported *C. perfringens* levels in raw product from the baselines were confirmed, rather than just presumptive, and thus validated the proposed growth limitation (no more than 1-log growth). Therefore, the Agency may have overestimated worst-case levels.

For this reason, FSIS has studied additional data to determine more precisely the pre- and post-processing *C. perfringens* levels in RTE products. The Agency tested ground beef samples for *C. perfringens* and found two out of 593 samples collected positive, with one colony at the detection limit of 3 cfu/gram.[32] Also, a survey by industry researchers indicates that, while *C. perfringens* levels in finished product occasionally exceed 100–140 cfu/gram, levels higher than 500–1000 cfu/gram are rare, even after cooling deviations.[33]

In addition, Taormina et al. (2003) reported that that the percent of positive for spores was 5.3% and 16.7% for cured ground/emulsified meat product mixtures and uncured ground/emulsified meat product mixtures, respectively. The average and maximum spore levels were 1.56 log CFU/g and 2.00 log CFU/g, respectively, for cured ground/emulsified meat product mixtures. The average and maximum spore levels were 1.75 log CFU/g and 2.11 log CFU/g, respectively, for uncured ground/emulsified meat product mixtures.

Notably, FSIS also has reviewed data from a large pork processing establishment in the Midwest showing that the *C. perfringens* spore counts were close to 1000 CFU/gram in raw sausage batter used to produce cooked sausages. In fact, 19 out of the 57 samples collected by the company resulted in *C. perfringens* spore counts ranging from 100 CFU/g to 760 CFU/g (2.88 log CFU/g) for the raw sausage batter.[34]

FSIS continually assesses the state of scientific information and overall based on this analysis considers its recommendations to be based on the most up-to-date information. FSIS requests data from industry related to spore levels in raw formulated products. The Agency is also planning to conduct a market basket survey to assess levels of *C. perfringens* vegetative cells and spores in large mass ready-to-eat (RTE) meat and poultry products at retail. Although this study will not determine the *C. perfringens* counts in all RTE meat and poultry products, it is focusing on large mass, non-intact RTE products because industry feedback has indicated that establishments cannot meet current cooling requirements for these products. FSIS plans to use the results of the study to determine the potential public health issues associated with these products and to assess whether changes to its policies are needed.

Lastly, at the time the 1998 FSIS Technical Report (Lethality and Stabilization Performance Standards for Certain Meat and Poultry Products: Technical Paper) was made available,

[30] See: *https://www.fsis.usda.gov/node/2011.*

[31] See: *https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1058416/pdf/applmicro00363-0093.pdf.*

[32] Eblen, D., Cook, V., and Levine, P. (2004). Prevalence and levels of *Clostridium perfringens* spores in raw ground beef from federally inspected establishments. Abstract submitted to the International Association for Food Protection, 2004—91st Annual Meeting, August 8–11, 2004.

[33] Kalinowski, R.M.; Tompkin, R.B.; Bodnaruk, P.W.; Pruett, W.P. 2003. Impact of cooking, cooling, and subsequent refrigeration on the growth or survival of *Clostridium perfringens* in cooked meat and poultry products. Journal of Food Protection 66. Pp. 1227–1232.

[34] Taormina, P.J., Bartholomew, G.W., Dorsa, W.J. 2003. Incidence of Clostridium perfringens in Commercially Produced Cured Raw Meat Product Mixtures and Behavior in Cooked Products during Chilling and Refrigerated Storage. Journal of Food Protection: January 2003, Vol. 66, No. 1, pp. 72–81.

FSIS determined 1-log growth of *C. perfringens* would provide an acceptable level of protection when considering worst-case levels of 4-logs CFU/g and building in a 1-log safety margin to ensure under worst-case levels would be below that which can cause human illness (*i.e.,* 6-logs CFU/gram or higher). FSIS agrees that the worst-case of 4-logs CFU/g of spores used in the Technical Paper may have been over-estimated because of the methodological flaws of the baseline, discussed above. However, also discussed above, FSIS has reviewed newer data such as that from a large pork processing establishment in the Midwest showing that the *C. perfringens* spore counts were close to 3-logs CFU/g). Therefore, the Agency now considers 3-logs CFU/g *C. perfringens* in product a worst-case estimate. In addition, in 2010, the National Advisory Committee on Microbiological Criteria for Foods (NACMCF) recommended building in a 2-log margin of safety to performance standards as opposed to the 1-log used in the Technical Paper.[35] Therefore, FSIS still considers allowing up to 1-log of *C. perfringens* in product to be an acceptable level of protection when considering worst-case spore counts of 3-log and a 2-log safety margin.

FSIS acknowledges the Technical Paper did not consider the effect of salt and nitrite on the germination of *C. perfringens* spores. However, FSIS cooling options do allow for slower cooling times when at least 100 ppm nitrite and at least 250 ppm erythorbate/ascorbate are added. By following FSIS recommendations, establishments would meet regulatory performance standards. Based on industry feedback, FSIS understands that establishments have historically been able to meet the time-temperature recommendations for cured ready-to-eat products. Finally, FSIS agrees that there is a need for data related to spore levels in raw formulated products and again asks industry to provide any available data.

Other Appendix B Issues

Comment: A large producer stated that the lower temperature limit for growth of *C. perfringens* is 53.6 °F, according to Solberg and Elkind (1970),[36] while FSIS guidance states it is 43 °F. The commenter also supported this statement with a reference to research by Kalinowski et al. (2003) that demonstrated cold storage reduces *C. perfringens*.[37]

Response: FSIS disagrees that the research by Solberg & Elkind (1970) supports a lower temperature limit of 53.6 °F for the growth for *C. perfringens.* Solberg and Elkind (1970) found that *C. perfringens* vegetative cells in frankfurters increased by 3-logs in 5 days when held at 53.6 °F, supporting that growth can occur at this temperature. The research found it was not until product was held at 50 °F that growth was restricted. FSIS does recognize that there is a range of growth limits of *C. perfringens* reported in the literature, depending on experimental conditions, such as strain(s) used, nutrient availability, pH, and growth medium (Labbe, 1989).[38] However, FSIS has reviewed the literature and determined that the most up-to-date research supports a minimum temperature of 50 °F to limit growth, as opposed to 43 °F that was included in the 2017 guideline. Therefore, FSIS has updated the lower growth limit temperature to 50 °F in the revision. This value is consistent with the research by Solberg and Elkind (1970). FSIS also recognizes the growth rate of *C. perfringens* decreases and slows down below 55 °F, but growth is not completely limited.

Regarding cold storage reducing *C. perfringens,* FSIS is aware of the research by Kalinowski et al., (2003). However, the reduction discussed in the research may be highly variable, product specific, and depend upon unstable or changing effects due to temperature and time.

Comment: A food safety consultant mentioned that FSIS had not established science-based upper and lower temperature limits for pathogen growth and consistently incorporated the values into their cooling options. The commenter noted that the minimum temperature at which growth of *C. perfringens* has been reported to multiply is 53.6 °F (ICMSF, 1996). Yet, the guidance from FSIS is to chill to 55 °F, 45 °F, or 40 °F. The commenter also stated that the minimum temperature for growth of the proteolytic strains of *C. botulinum* associated with meat in the USA is 50 °F (ICMSF, 1996). The commenter stated that the lower critical limit for cooling should be 53.6 °F (54 °F) or 50 °F.

Response: FSIS cooling options in the guidance are focused on ensuring cooling time to limit the optimum growth rate for *C. perfringens* and *C. botulinum* (*i.e.,* between 130 or 120 to 80 °F). As previously explained, FSIS has reviewed the literature and determined that the most up-to-date research supports a minimum growth limit of 50 °F. This value is consistent with the research by Solberg and Elkind (1970). FSIS also recognizes the growth rate of *C. perfringens* decreases and slows down below 55 °F, but growth is not completely limited. Therefore, the guidance recommends products continue to cool to 40 °F to ensure the growth of other pathogens, such as *Listeria monocytogenes,* is limited because FSIS guidance is intended to be comprehensive.

Comment: A small producer requested that FSIS clarify why using spore counts alone in cooked products is not appropriate, given how the guidance suggests using spore counts in raw products to support the option allowing 2-log growth of *C. perfringens.*

Response: Although measuring *C. perfringens* spore counts is considered an appropriate method to quantify the initial levels of the *C. perfringens* inoculum, the final measure of bacterial load should include a measure of both spore levels and vegetative cells. FSIS considers it important for public health to measure the vegetative cells in addition to the spore levels because during stabilization, *C. perfringens* spores can germinate and grow into vegetative cells. Once vegetative cells reach a critical level and the contaminated food is consumed, the cells produce enough toxin in the intestines to cause illness. For this reason, FSIS recommends measuring spore counts as part of baseline testing to determine whether the initial levels of *C. perfringens* are low and then measuring both spore counts and vegetative cells after cooking and cooling to understand the public health risk of a product.

Comment: A food safety consultant commented that, on page five of the 2017 version, the mention of the European experience with *C. botulinum* in home-prepared ham raises concerns. The commenter stated that there is a long history in Europe of human cases of botulism being caused by psychrotrophic strains of *C. botulinum* in meat products. Such cases have not been documented in the U.S.

Response: There are six distinct Clostridia that produce botulinum toxin,

[35] National Advisory Committee on Microbiological Criteria for Foods. 2010. Parameters for Determining Inoculated Pack/Challenge Study Protocol. J. Food Prot. 73:140–20.

[36] Solberg, M., and Elkind, B. 1970. Effect of processing and storage conditions on the microflora of *Clostridium perfringens*-inoculated frankfurters. Journal of Food Science. 35: 1267–1269.

[37] Kalinowski, R.M., Tompkin, R.B., Bodnaruk, P.W., and Pruett, P.W. 2003. Impact of Cooking, Cooling, and Subsequent Refrigeration on the Growth or Survival of *Clostridium perfringens* in Cooked Meat and Poultry Products. Journal of Food Protection. 66(7): 1227–1232.

[38] Labbe, R. ''*Clostridium perfringens*''. Foodborne Bacterial Pathogens. Ed. Michael P. Doyle. New York: Marcel Dekker, Inc. 1989. 796 pages.

two of which are associated with food: *C. botulinum* Group 1 (proteolytic) and *C. botulinum* Group II (non-proteolytic). Although non-proteolytic *C. botulinum* is typically associated with fish and marine products, there have been several recent outbreaks in Europe associated with non-proteolytic *C. botulinum* and home-prepared (salted) ham (Peck et al., 2015).[39] However, establishments do not need to address non-proteolytic *C. botulinum* during cooling as controls for proteolytic *C. botulinum* during cooling are sufficient to address non-proteolytic *C. botulinum.*

Additional Public Notification

FSIS will make copies of this **Federal Register** publication available through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS website. Through the website, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *https://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

Congressional Review Act

Pursuant to the Congressional Review Act at 5 U.S.C. 801 *et seq.,* the Office of Information and Regulatory Affairs has determined that this notice is not a ''major rule,'' as defined by 5 U.S.C. 804(2).

USDA Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by: (1) Mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; (2) fax: (202) 690–7442; or (3) email: *program.intake@usda.gov.* USDA is an equal opportunity provider, employer, and lender.

Done at Washington, DC.

Paul Kiecker,

Administrator.

[FR Doc. 2021–26993 Filed 12–13–21; 8:45 am]

BILLING CODE 3410–DM–P

[39] Peck, M., Devlieghere, F., and Membre, J. 2015. *Clostridium botulinum:* a recurrent emerging foodborne pathogen. Symposium conducted at the International Association of Food Protection: Portland, Oregon. July 26–29, 2015.

DEPARTMENT OF AGRICULTURE

Forest Service

Secure Rural Schools Resource Advisory Committees

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Call for nominations.

SUMMARY: The Forest Service, United States Department of Agriculture (USDA), is seeking nominations for the Secure Rural School Resource Advisory Committees (SRS RACs) pursuant the Secure Rural Schools and Community Self-Determination Act (the Act) and the Federal Advisory Committee Act (FACA). Additional information on the SRS RACs can be found by visiting the SRS RACs website at: *https://cms.fs.usda.gov/working-with-us/secure-rural-schools/title-2.*

DATES: Written nominations must be received by January 28, 2022. A completed application packet includes the nominee's name, resume, and completed *AD–755 Form* (Advisory Committee or Research and Promotion Background Information). All completed application packets must be sent to the addresses below.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** under *Nomination and Application Information* for the address of the SRS RAC Regional Coordinators accepting nominations.

FOR FURTHER INFORMATION CONTACT: Juana Rosas, National Partnership Coordinator, National Partnership Office, USDA Forest Service, Yates Building, 1400 Independence Avenue, Mailstop #1158, Washington, DC 20250, 202–641–0067, or by email to *SM.FS.SRSInbox@usda.gov.* Individuals who use telecommunication devices for the deaf/hard-of-hearing (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 between 8:00 a.m. and 5:00 p.m., 24 hours per day, every day of the week, including holidays.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the provisions of FACA, the Secretary of Agriculture is seeking nominations for the purpose of improving collaborative relationships among people who use and care for National Forests and providing advice and recommendations to the Forest Service concerning projects and funding consistent with Title II. The duties of SRS RACs include monitoring projects, advising the Secretary on the progress and results of monitoring efforts, and making recommendations to the Forest Service for any appropriate changes or adjustments to the projects being monitored by the SRS RACs.

SRS RACs Membership

The SRS RACs will be comprised of 15 members approved by the Secretary of Agriculture (or designee) where each will serve a 4-year term. SRS RACs memberships will be balanced in terms of the points of view represented and functions to be performed. The SRS RACs shall include representation from the following interest areas:

(1) Five persons who represent:

(a) Organized Labor or Non-Timber Forest Product Harvester Groups,

(b) Developed Outdoor Recreation, Off-Highway Vehicle Users, or Commercial Recreation Activities,

(c) Energy and Mineral Development, or Commercial or Recreational Fishing Groups,

(d) Commercial Timber Industry,

(e) Federal Grazing Permit or Other Land Use Permit Holders, or Representative of Non-Industrial Private Forest Land Owners, within the area for which the committee is organized.

(2) Five persons who represent:

(a) Nationally or Regionally Recognized Environmental Organizations,

(b) Regionally or Locally Recognized Environmental Organizations,

(c) Dispersed Recreational Activities,

(d) Archaeology and History,

(e) Nationally or Regionally Recognized Wild Horse and Burro Interest, Wildlife Hunting Organizaitons, or Watershed Associations.

(3) Five persons who represent:

(a) State Elected Office holder,

(b) County or Local Elected Office holder,

(c) American Indian Tribes within or adjacent to the area for which the committee is organized,

(d) Area School Officials or Teachers,

(e) Affected Public-at-Large.

If a vacancy arises, the Designated Federal Officer (DFO) may consider recommending to the Secretary (or designee) to fill the vacancy as soon as it occurs with a candidate from the applicant pool, provided an appropriate candidate is available. In accordance with the Act, members of the SRS RAC shall serve without compensation. SRS RAC members and replacements may be allowed travel expenses and per diem for attendance at committee meetings, subject to approval of the DFO responsible for administrative support to the SRS RAC.

Nomination and Application Information

The appointment of members to the SRS RACs will be made by the Secretary of Agriculture (or designee).

The public is invited to submit nominations for membership on the SRS RACs, either as a self-nomination or a nomination of any qualified and interested person. Any individual or organization may nominate one or more qualified persons to represent the interest areas listed above. To be considered for membership, nominees must:

1. Be a resident of the State in which the SRS RAC has jurisdiction,

2. Identify what interest group they would represent and how they are qualified to represent that interest group,

3. Provide a cover letter stating why they want to serve on the SRS RAC and what they can contribute,

4. Provide a resume showing their past experience in working successfully as part of a group working on forest management activities,

5. Complete Form AD–755, Advisory Committee or Research and Promotion Background Information. The Form AD–755 may be obtained from the Regional Coordinators listed below or from the following SRS RACs website: *https://cms.fs.usda.gov/working-with-us/secure-rural-schools/title-2.* All nominations will be vetted by the Agency.

Nominations and completed applications for SRS RACs should be sent to the appropriate Forest Service Regional Offices listed below:

Northern Regional Office—Region 1

Central Montana RAC, Flathead RAC, Gallatin RAC, Idaho Panhandle RAC, Lincoln RAC, Mineral County RAC, Missoula RAC, Missouri River RAC, North Central Idaho RAC, Ravalli RAC, Sanders RAC, Southern Montana RAC, Southwest Montana RAC, Tri-County RAC

Julie Kies, Northern Regional Coordinator, Forest Service, 26 Fort Missoula Road, Missoula, Montana 59804, (406) 329–3680.

Rocky Mountain Regional Office—Region 2

Black Hills RAC and Greater Rocky Mountain RAC

Jace Ratzlaff, Rocky Mountain Regional Coordinator, Forest Service, 1617 Cole Blvd. Building 17, Lakewood, Colorado 80401, (719) 469–1254.

Southwestern Regional Office—Region 3

Coconino County RAC, Eastern Arizona RAC, Northern New Mexico RAC, Southern Arizona RAC, Southern New Mexico RAC, Yavapai RAC

Jonathan Word, Southwestern Regional Coordinator, Forest Service, 333 Broadway SE, Albuquerque, New Mexico 87102, (505) 842–3241.

Intermountain Regional Office—Region 4

Alpine RAC, Bridger-Teton RAC, Central Idaho RAC, Dixie RAC, Eastern Idaho RAC, Fishlake RAC, Lyon-Mineral RAC, Manti-La Sal RAC, Northern Utah, South Central Idaho RAC, Southwest Idaho RAC, Rural Nevada RAC

Andy Brunelle, Intermountain Regional Coordinator (Idaho/Utah), Forest Service, Federal Building, 324 25th Street, Ogden, Utah 84401, (208) 344–1770.

Cheva Gabor, Intermountain Regional Coordinator (Nevada), Forest Service, Federal Building, 324 25th Street, Ogden, Utah 84401, (775) 224–2777.

Pacific Southwest Regional Office—Region 5

Butte County RAC, Del Norte County RAC, El Dorado County RAC, Fresno County RAC, Glenn and Colusa Counties RAC, Humboldt County RAC, Kern and Tulare Counties RAC, Lassen County RAC, Mendo-Lake County RAC, Modoc County RAC, Nevada and Placer Counties RAC, Plumas County RAC, Shasta County RAC, Sierra County RAC, Siskiyou County RAC, Tehama RAC, Trinity County RAC, Tuolumne and Mariposa Counties RAC

Paul Wade, Pacific Southwest Regional Coordinator, Forest Service, 1323 Club Drive, Vallejo, California 94592, (707) 562–9010.

Pacific Northwest Regional Office—Region 6

Columbia County RAC, Colville RAC, Deschutes and Ochoco RAC, Fremont and Winema RAC, Hood and Willamette RAC, Gifford Pinchot RAC, North Mt. Baker-Snoqualmie RAC, Northeast Oregon Forests RAC, Olympic Peninsula RAC, Rogue and Umpqua RAC, Siskiyou (OR) RAC, Siuslaw RAC, Snohomish-South Mt. Baker Snoqualmie RAC, Southeast Washington Forest RAC, Wenatchee-Okanogan RAC

Benjamin Hier, Pacific Northwest Regional Office, Forest Service, 1220 Southwest 3rd Avenue, Portland, Oregon 97204, (503) 808–2479.

Southern Regional Office—Region 8

Alabama RAC, Cherokee RAC, Daniel Boone RAC, Davy Crockett RAC, Florida National Forests RAC, Francis Marion-Sumter RAC, Kisatchie RAC, Ozark-Ouachita RAC, Sabine-Angelina RAC, Southwest, National Forest in Mississippi, Virginia RAC

Michael Williams, Southern Regional Coordinator, Forest Service, 1720 Peachtree Road, Northwest, Atlanta, Georgia 30309, (404) 347–7632.

Eastern Regional Office—Region 9

Allegheny RAC, Chippewa National Forest RAC, Eleven Point RAC, Hiawatha RAC, Huron-Manistee RAC, North Wisconsin RAC, Ottawa, Superior RAC, West Virginia RAC

David Scozzafave, Eastern Regional Coordinator, Forest Service, 626 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, (414) 297–3602.

Alaska Regional Office—Region 10

Kenai Peninsula-Anchorage Borough RAC, North Tongass RAC, Prince William Sound RAC, South Tongass RAC

Kevin Hood, Alaska Regional Coordinator, Forest Service, 709 West 9th Street, Room 561C, Juneau, Alaska 99801–1807, (907) 586–7829.

Equal opportunity practices, in line with USDA policies, will be followed in all membership appointments to the RAC. To help ensure that recommendations of the RAC have addressed the needs of the diverse groups served by the Department, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

The USDA prohibits discrimination in all its programs and activities based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, political beliefs, income derived from a public assistance program, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA (not all bases apply to all programs).

Dated: December 9, 2021.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2021–26995 Filed 12–13–21; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Maryland Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of planning meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Maryland Advisory Committee to the Commission will convene by WebEx virtual platform and conference call on Tuesday, January 4, 2022, at 12:00 p.m., to continue its work on water accessibility and affordability in Maryland.

DATE: Tuesday, January 4, 2022; 12:00 p.m. (ET)

ADDRESSES:

Public Webex Conference Link (Video and Audio): https://bit.ly/3ATFxTt.

If Phone Only: 1–800–360–9505; Access code: 199 818 3090#.

FOR FURTHER INFORMATION CONTACT: Barbara Delaviez at *ero@usccr.gov* or by phone at 202–381–8915.

SUPPLEMENTARY INFORMATION: The meeting is available to the public through the web link above. If joining only via phone, callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Individuals who are deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with conference details found through registering at the web link above. To request additional accommodations, please email *bdelaviez@usccr.gov* at least 10 days prior to the meeting.

Members of the public are invited to make statements during the open comment period of the meeting or submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be emailed to Barbara Delaviez at *ero@usccr.gov.* Persons who desire additional information may contact Barbara Delaviez at 202–539–8246.

Records and documents discussed during the meeting will be available for public viewing as they become available at *www.facadatabase.gov.* Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number or email address.

Agenda

January 4, 2022 (Tuesday); 12:00 p.m. (ET)

- Rollcall
- Planning on Water Affordability/Accessibility
- Open Comment
- Adjournment

Dated: December 9, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021–27023 Filed 12–13–21; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Florida Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of virtual business meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Florida Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a virtual business meeting via Webex at 10:30 a.m. ET on Thursday, January 20, 2022. The purpose of the meeting is for the Committee to discuss their project on Voting Rights.

DATES: The meeting will take place on Thursday, January 20, 2022, at 10:30 a.m. ET.

Online Regisration (Audio/Visual): https://bit.ly/3rKslPh.

Telephone (Audio Only): Dial 800–360–9505 USA Toll Free; Access code: 2762 996 8036.

FOR FURTHER INFORMATION CONTACT: Mallory Trachtenberg, DFO, at *mtrachtenberg@usccr.gov* or (202) 809–9618.

SUPPLEMENTARY INFORMATION: Committee meetings are available to the public through the conference link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Individuals who are deaf, deafblind, and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference details found through registering at the web link above. To request additional accommodations, please email *mtrachtenberg@usccr.gov* at least ten (10) days prior to the meeting.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Liliana Schiller at *lschiller@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via

www.facadatabase.gov under the Commission on Civil Rights, Florida Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at the above email or street address.

Agenda

I. Welcome & Roll Call
II. Voting Rights Review
III. Public Comment
IV. Next Steps
V. Adjournment

Dated: Thursday, December 9, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021–27026 Filed 12–13–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Certification of Identity (Form BC–300); Correction

AGENCY: Census Bureau, Commerce.

ACTION: Notice; correction.

SUMMARY: On December 8, 2021, the Department of Commerce, published a 30-day public comment period notice in the **Federal Register** with FR Document Number 2021–26557 (Page 69618) seeking public comments for an information collection entitled, ''Certification of Identity (Form BC–300).'' This document referenced incorrect information in the ''Needs and Uses'' section, and Commerce hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: For additional information concerning this correction, contact Vernon E. Curry, Chief, Freedom of Information Act/Privacy Act Officer, U.S. Census Bureau, at 301–763–7325, *vernon.e.curry@census.gov* or at *PRAcomments@doc.gov.*

SUPPLEMENTARY INFORMATION:

Correction

Needs and Uses

The need for the Certification of Identity (Form BC–300) is imperative to performing accurate controls of the disbursement of personnel records to the public. This information collection is necessary to prevent unauthorized disclosure of records of individuals maintained by the U.S. Census Bureau and all Department of Commerce Bureaus, and allows parties who are, or were, in proceedings to disclose or release their records to an attorney, accredited representative, qualified organization, or other third party.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the initial publication notice date of December 8, 2021 on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering the title of the collection.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–26946 Filed 12–13–21; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–842, A–570–022, C–570–023, A–560–828, C–560–829]

Certain Uncoated Paper From Brazil, the People's Republic of China, and Indonesia: Affirmative Final Determinations of Circumvention of the Antidumping Duty Orders and Countervailing Duty Orders for Certain Uncoated Paper Rolls

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that imports of certain uncoated paper rolls from Brazil, the People's Republic of China (China), and Indonesia are circumventing the antidumping duty (AD) orders on certain uncoated paper (uncoated paper) from Brazil, China, and Indonesia, and that imports of certain uncoated paper rolls from China and Indonesia are circumventing the countervailing duty (CVD) orders on uncoated paper from China and Indonesia.

DATES: Applicable December 14, 2021.

FOR FURTHER INFORMATION CONTACT: Genevieve Coen or Rachel Greenberg, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3251 or (202) 482–1110, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 13, 2020, and January 27, 2021, Commerce published the *Preliminary Determinations* [1] for the anti-circumvention inquiries of the AD and CVD orders on uncoated paper from Brazil, China, and Indonesia with respect to uncoated paper rolls which are imported from Brazil, China, and Indonesia, and further processed into uncoated paper sheets subject to the *Orders.*[2] We invited parties to comment on the *Preliminary Determinations.* A summary of the events that occurred since Commerce published the *Preliminary Determinations* may be found in the respective Issues and Decision Memoranda.[3] Commerce conducted these anti-circumvention inquiries in accordance with section 781(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Orders

The merchandise subject to these *Orders* includes uncoated paper in sheet

[1] *See Certain Uncoated Paper from the People's Republic of China: Affirmative Preliminary Determinations of Circumvention of the Antidumping and Countervailing Duty Orders for Uncoated Paper* Rolls, 85 FR 72624 (November 13, 2020) (*China Preliminary Determination*), and accompanying Preliminary Determination Memorandum (PDM); *Certain Uncoated Paper from Brazil: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order for Uncoated Paper Rolls,* 86 FR 7261 (January 27, 2021) (*Brazil Preliminary Determination*), and accompanying PDM; and *Certain Uncoated Paper from Indonesia: Affirmative Preliminary Determinations of Circumvention of the Antidumping and Countervailing Duty Orders for Uncoated Paper Rolls,* 86 FR 7266 (January 27, 2021) (*Indonesia Preliminary Determination*), and accompanying PDM (collectively, *Preliminary Determinations*).

[2] *See Certain Uncoated Paper from Australia, Brazil, Indonesia, the People's Republic of China, and Portugal: Amended Final Affirmative Antidumping Determinations for Brazil and Indonesia and Antidumping Duty Orders,* 81 FR 11174 (March 3, 2016) (*Orders*).

[3] *See* Memoranda, ''Final Decision Memorandum for Anti-Circumvention Inquiry of the Antidumping Duty Order on Certain Uncoated Paper from Brazil: Uncoated Paper Rolls''; ''Final Decision Memorandum for Anti-Circumvention Inquiries of the Antidumping and Countervailing Duty Orders on Certain Uncoated Paper from Indonesia: Uncoated Paper Rolls''; and ''Anti-Circumvention Inquiries of the Antidumping Duty Orders on Certain Uncoated Paper from Brazil, China, and Indonesia, and the Countervailing Duty Orders on Certain Uncoated Paper from China and Indonesia: Uncoated Paper Rolls Certification,'' dated concurrently with, and hereby adopted by, this notice (collectively, Issues and Decision Memoranda).

form; weighing at least 40 grams per square meter but not more than 150 grams per square meter; that either is a white paper with a GE brightness level [4] of 85 or higher or is a colored paper; whether or not surface-decorated, printed (except as described below), embossed, perforated, or punched; irrespective of the smoothness of the surface; and irrespective of dimensions (Certain Uncoated Paper).

Certain Uncoated Paper includes (a) uncoated free sheet paper that meets this scope definition; (b) uncoated ground wood paper produced from bleached chemi-thermo-mechanical pulp (BCTMP) that meets this scope definition; and (c) any other uncoated paper that meets this scope definition regardless of the type of pulp used to produce the paper.

Specifically excluded from the scope are (1) paper printed with final content of printed text or graphics and (2) lined paper products, typically school supplies, composed of paper that incorporates straight horizontal and/or vertical lines that would make the paper unsuitable for copying or printing purposes. For purposes of this scope definition, paper shall be considered ''printed with final content'' where at least one side of the sheet has printed text and/or graphics that cover at least five percent of the surface area of the entire sheet.

On September 1, 2017, Commerce determined that imports of uncoated paper with a GE brightness of 83 +/−1% (83 Bright paper), otherwise meeting the description of in-scope merchandise, constitute merchandise ''altered in form or appearance in minor respects'' from in-scope merchandise that are subject to these *Orders.*[5]

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) categories 4802.56.1000, 4802.56.2000, 4802.56.3000, 4802.56.4000, 4802.56.6000, 4802.56.7020, 4802.56.7040, 4802.57.1000, 4802.57.2000, 4802.57.3000, and 4802.57.4000. Some imports of subject merchandise may also be classified under 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.5000, 4802.62.6020, 4802.62.6040, 4802.69.1000, 4802.69.2000, 4802.69.3000, 4811.90.8050 and 4811.90.9080. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the *Orders* is dispositive.

Merchandise Subject to the Anti-Circumvention Inquiries

These anti-circumvention inquiries cover certain uncoated paper rolls that are commonly, but not exclusively, known as ''sheeter rolls'' from Brazil, China, and Indonesia that are further processed in the United States into individual sheets of uncoated paper that would be subject to the *Orders* (*i.e.,* paper that weighs at least 40 grams per square meter but not more than 150 grams per square meter; and that either is a white paper with a GE brightness level of 83 +/−1% or higher or is a colored paper (as defined above)). The uncoated paper rolls covered by these inquiries are converted into sheets of uncoated paper using specialized cutting machinery prior to printing, and are typically, but not exclusively, between 52 and 103 inches wide and 50 inches in diameter. For clarity, we herein refer to ''subject-paper rolls'' when referencing the certain uncoated paper rolls that may be converted into subject merchandise. Subject-paper rolls are classified under HTSUS category 4802.55.

Certain importers of the subject-paper rolls that are not converted into subject merchandise may certify that the rolls will not be further processed into subject merchandise covered by the scope of the *Orders.*[6] Failure to comply with the requisite certification requirement may result in the merchandise being found subject to AD and/or CVD duties.

Analysis of Comments Received

All the issues raised in the case and rebuttal briefs that were submitted by parties in the respective inquiries are addressed in the Issues and Decision Memoranda. Lists of the issues raised regarding the Brazil and Indonesia determinations are attached to this notice at Appendices I and II, respectively. A list of the issues raised regarding the certification program are attached to this notice at Appendix III. No comments were submitted with respect to the China determination. The Issues and Decision Memoranda are public documents and are on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, complete versions of the Issues and Decision Memoranda can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Final Determinations

In the *Preliminary Determinations,* we determined that imports of subject-paper rolls that are converted into uncoated paper sheets are circumventing the *Orders.* Specifically, we determined that imports of subject-paper rolls from Brazil, China, and Indonesia are being finished and sold in the United States pursuant to the statutory and regulatory criteria laid out in section 781(a) of the Act and 19 CFR 351.225(g).

For the *Brazil Preliminary Determination,* we relied upon record evidence submitted by the petitioners,[7] Suzano,[8] Perez Trading Company (Perez), IP,[9] and one U.S. company that requested proprietary treatment of its name. We also relied on adverse facts available (AFA) for Ahlstrom-Munksjo Brasil Industria e Comercio de Papeis Especiais Ltda (Ahlstrom) [10] because it failed to respond to Commerce's request for information.

For the *China Preliminary Determination,* we relied upon information provided by the petitioners and on AFA for seven non-responsive companies because they failed to respond to Commerce's request for information.[11] Additionally, we considered the no shipment responses

[4] One of the key measurements of any grade of paper is brightness. Generally speaking, the brighter the paper the better the contrast between the paper and the ink. Brightness is measured using a GE Reflectance Scale, which measures the reflection of light off a grade of paper. One is the lowest reflection, or what would be given to a totally black grade, and 100 is the brightest measured grade. ''Colored paper'' as used in this scope definition means a paper with a hue other than white that reflects one of the primary colors of magenta, yellow, and cyan (red, yellow, and blue) or a combination of such primary colors.

[5] *See Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal: Affirmative Final Determination of Circumvention of the Antidumping and Countervailing Duty Orders,* 82 FR 41610 (September 1, 2017).

[6] *See* Appendices IV through IX.

[7] The petitioners include Domtar Corporation; Packaging Corporation of America; North Pacific Paper Company; Finch Paper LLC; and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union.

[8] Suzano includes Suzano S.A. and Suzano Pulp and Paper America, Inc.

[9] IP includes International Paper do Brasil Ltda. and International Paper Exportadora Ltda.

[10] Ahlstrom also operates under the names Ahlstrom Brasil Ltd. and Ahlstrom-Munksjö Brasil Indústria e Comércio de Papéis Especiais LTDA. Ahlstrom also previously operated under the names Munksjö Brasil Ind e Com de Papeis Especiais LTDA and Ahlstrom Brasil Ind e Com de Papeis Especiais LTDA. *See* Ahlstrom's Letter, ''Response to September 3, 2021 Letter from the Department of Commerce Requesting Company Name Clarification,'' dated September 9, 2021.

[11] These non-responsive companies are Central National Asia Limited, Kingdecor (Zhejiang) Co., Ltd., Shandong Sun Paper Industry Joint Stock Co Ltd, Sun Paper (Hong Kong) Co., Limited, and Sunpack Paper Products Company.

from Asia Symbol,[12] Gold Huasheng,[13] and Marubeni.[14]

For the *Indonesia Preliminary Determination,* we based the determination on information provided by the petitioners, APP Indonesian Mills,[15] APRIL,[16] Great Champ Trading Limited, CellMark Paper Inc. (CellMark), Charta Global, and International Forest Products. We also relied on AFA in whole (for companies that failed to respond to Commerce's requests for information) [17] or in part (for CellMark, which submitted incomplete information). For a complete discussion of the evidence which led to our preliminary determinations, *see* the *Preliminary Determinations* and accompanying Preliminary Decision Memoranda.

Our final determinations remain unchanged from the *Preliminary Determinations.* Accordingly, we determine, pursuant to section 781(a) of the Act and 19 CFR 351.225(g), that imports of certain uncoated paper rolls from Brazil, China, and Indonesia are circumventing the *Orders.* We made no changes to the certification programs.

Liquidation of Entries

For all entries of merchandise subject to the AD order on uncoated paper from Brazil, entered or withdrawn from warehouse for consumption on or before February 28, 2021, Commerce intends to instruct CBP to liquidate those entries at the applicable AD rates for those entries.[18]

For entries of subject-paper rolls from China that were entered, or withdrawn from warehouse, for consumption from October 10, 2019, through October 17, 2019, Commerce intends to instruct Customs and Border Protection (CBP) to liquidate those entries without regard to AD or CVD duties.[19] For entries of subject-paper rolls from China that were produced, exported, or imported by companies other than the non-responsive companies,[20] entered, or withdrawn from warehouse, for consumption from November 6, 2020, through November 12, 2020, Commerce intends to instruct CBP to liquidate those entries without regard to AD or CVD duties.[21]

For all entries of merchandise subject to the AD order on uncoated paper from Indonesia, entered or withdrawn from warehouse for consumption on or before February 28, 2021, Commerce intends to instruct CBP to liquidate those entries at the applicable AD rates for those entries.[22] For all entries of merchandise subject to the CVD order on uncoated paper from Indonesia, entered or withdrawn from warehouse for consumption on or before December 31, 2020, Commerce intends to instruct CBP to liquidate those entries at the applicable CVD rates for those entries.[23]

Continuation of Suspension of Liquidation

As a result of this determination, and consistent with 19 CFR 351.225(l)(3), we will instruct CBP to continue to suspend the liquidation of all entries of subject-paper rolls entered under the Brazil, China, and Indonesia AD orders after February 28, 2021, and all entries entered under the China and Indonesia CVD orders after December 31, 2020, and to require cash deposits of estimated AD and CVD duties at the applicable subject merchandise rates.

Certification Requirements

As a result of these anti-circumvention proceedings, subject-paper rolls, as defined above, produced in Brazil, China, and Indonesia that are further processed into uncoated paper sheets in the United States, are subject to the . Accordingly, pursuant to 19 CFR 351.228,[24] Commerce is continuing to impose a certification requirement for purposes of enforcing and administering its final determinations. Therefore, if an importer imports subject-paper rolls from Brazil, China or Indonesia that will not be further processed into uncoated paper sheets, in order to not be subject to cash deposit requirements, the importer is required to meet the certification and documentation requirements described in Appendix IV for merchandise from Brazil, Appendix VI for merchandise from China, and VIII for merchandise from Indonesia. Properly certified entries are not subject to AD/CVD duties under the *Orders.* Exemption from AD and CVD duties under the *Orders* is permitted only if the certification and documentation specified in Appendices IV and V for merchandise from Brazil, Appendices VI and VII for merchandise from China, and VIII and IX for merchandise from Indonesia, are met.

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to all parties subject to the administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with section 781(a) of the Act, and 19 CFR 351.225(g).

[12] Asia Symbol includes the following companies: Greenpoint Global Trading (Macao) Commercial Offshore Ltd. (Greenpoint)/Asia Symbol (Guangdong) Paper Co., Ltd./Asia Symbol (Shandong) Pulp and Paper Co., Ltd.

[13] Gold Huasheng Paper Co., Ltd Inc. (Gold Huasheng) also includes its affiliated parties Gold East Paper Co., Ltd., Hainan Jinhai Pulp and Paper Company, and Ningbo Zhonghua Paper Co, Ltd.

[14] Marubeni (China) Corporation, Ltd. (Marubeni) also includes its affiliates Marubeni America Corporation and Marubeni (Shanghai) Corporation, Ltd.

[15] APP Indonesian Mills includes PT. Indah Kiat Pulp and Paper Tbk; PT. Pabrik Kertas Tjiwi Kimia Tbk; and Pindo Deli Pulp and Paper.

[16] APRIL includes PT Anugrah Kertas Utama; PT Riau Andalan Kertas; APRIL Fine Paper Macao Commercial Offshore Limited; A P Fine Paper Trading (Hong Kong) Limited; and APRIL International Enterprise Pte. Ltd.

[17] These non-responsive companies are Advanced Paper; Alliance Converting LLC; Case Paper; LinkMax Paper; and Northwoods Paper Converting.

[18] Commerce has completed its administrative reviews of the AD order on uncoated paper from Brazil for the periods of March 1, 2019, through February 29, 2020, and March 2, 2020, through February 28, 2021. Therefore, Commerce will instruct CBP to liquidate all entries through the end of the last completed administrative review period.

[19] In the *China Preliminary Determination,* we suspended liquidation for entries produced or exported by CNAL, Kingdecor, Shandong Sun Paper, Sun Paper HK, and Sunpack starting October 10, 2019, the date we initiated these inquiries. To be consistent with the other inquiries for uncoated paper rolls, we are modifying this date to October 18, 2019, the publication date of the *Initiation Notice.*

[20] The non-responsive companies from the China inquiries are CNAL, Kingdecor, Shandong Sun Paper, Sun Paper HK, and Sunpack.

[21] The *China Preliminary Determination* stated that for all other entries of subject-paper rolls, Commerce would instruct CBP to suspend liquidation beginning November 6, 2020, *i.e.,* the signature date of the preliminary determination. To be consistent with the other inquiries for uncoated paper rolls, we are modifying the effective date for all other entries from China to November 13, 2020, *i.e.,* the publication date of the *China Preliminary Determination.*

[22] Commerce is not conducting an administrative review of the AD order on uncoated paper from Indonesia for the period ending on February 28, 2021. Therefore, Commerce will instruct CBP to liquidate all entries through the end of the last administrative review period.

[23] Commerce is not conducting an administrative review of the CVD order on uncoated paper from Indonesia for the period ending on December 31, 2020. Therefore, Commerce will instruct CBP to liquidate all entries through the end of the last administrative review period.

[24] On September 20, 2021, Commerce adopted a new regulation, 19 CFR 351.228, which codifies Commerce's certification practice. *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300 (September 10, 2021) (adopting 19 CFR 351.228 effective October 20, 2021).

Dated: December 7, 2021.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum: Brazil Final Determination

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum: Indonesia Final Determination

Appendix III

List of Topics Discussed in the Issues and Decision Memorandum: Certification Program

Appendix IV

Certification Requirements: Brazil

If an importer imports subject-paper rolls from Brazil and claims that the subject-paper rolls will not be further processed into uncoated paper sheets covered by the *Order,* the importer is required to complete and maintain the importer certification attached hereto at Appendix V and all supporting documentation. Where the importer uses a broker to facilitate the entry process, it should obtain the entry summary number from the broker. Agents of the importer, such as brokers, however, are not permitted to make this certification on behalf of the importer.

All importers of subject-paper rolls from Brazil are eligible for the certification process detailed below, with the exception that entries of subject-paper rolls produced and/or exported by Ahlstrom Brasil Ltd., Ahlstrom-Munksjo Brasil Industria e Comercio de Papeis Especiais Ltda, and/or Ahlstrom-Munksjö Brasil Indústria e Comércio de Papéis Especiais LTDA. are ineligible for certification.

For entries of subject-paper rolls from Brazil entered, or withdrawn from warehouse, for consumption on or after the date this final determination was signed for which the importer claims that the rolls will not be further processed into uncoated paper subject to the order, the importer is required to meet the certification and documentation requirements detailed in the certifications in order for no suspension of liquidation and no cash deposit to be required for such entries. Among other requirements detailed below, importers are required to maintain a copy of any certifications, as well as sufficient documentation supporting the certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, production records, invoices, *etc.*) for the later of: (1) A period of five years from the date of entry; or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries.

For all shipments and/or entries for which certifications are required, importers should complete the required certification at or prior to the date of Entry Summary.

Appendix V

Importer Certification: Brazil

I hereby certify that:

(A) My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY}.

(B) I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of subject-paper rolls produced in Brazil that entered under entry summary number(s), identified below, and which are covered by this certification. Subject-paper rolls are defined as certain uncoated paper rolls commonly, but not exclusively, known as ''sheeter rolls,'' (rolls with paper that weigh at least 40 grams per square meter but not more than 150 grams per square meter; and paper that either is a white paper with a GE brightness level of 83 +/− 1% or higher or is a colored paper) that may be converted into subject merchandise. The uncoated paper rolls are typically, but not exclusively, between 52 and 103 inches wide and 50 inches in diameter. Subject-paper rolls are classified under HTSUS category 4802.55. ''Direct personal knowledge'' refers to facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the importation of the product (*e.g.,* the name of the exporter) in its records.

(C) If the importer is acting on behalf of the first U.S. customer, complete this paragraph, if not put ''NA'' at the end of this paragraph: The imported subject-paper rolls covered by this certification were imported by {NAME OF IMPORTING COMPANY} on behalf of {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER}.

(D) The imported subject-paper rolls covered by this certification were shipped to {NAME OF PARTY TO WHOM MERCHANDISE WAS FIRST SHIPPED IN THE UNITED STATES}, located at {ADDRESS OF SHIPMENT}.

(E) Select appropriate statement below:

____I have have direct personal knowledge of the facts regarding the end-use of the imported product because my company is the end-user of the imported product covered by this certification and I certify that the imported subject-paper rolls will not be used to produce subject merchandise. ''Direct personal knowledge'' includes information contained within my company's books and records.

____I have personal knowledge of the facts regarding the end-use of the imported product because my company is not the end-user of the imported product covered by this certification. However, I have been able to contact the end-user of the imported product and confirm that it will not use this product to produce subject merchandise. The end-user of the imported product is {COMPANY NAME} located at {ADDRESS}. ''Personal knowledge'' includes facts obtained from another party (*e.g.,* correspondence received by the importer from the end-user of the product).

(F) The imported subject-paper rolls covered by this certification will not be further processed into uncoated paper sheets in the United States.

(G) This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:
Entry Summary Line Item #:
Foreign Seller:
Foreign Seller's Address:
Foreign Seller's Invoice #:
Foreign Seller's Invoice Line Item #:

Producer:
Producer's Address:

(H) I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, production records, invoices, etc.) for the later of: (1) A period of five years from the date of entry; or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries.

(I) I understand that {NAME OF IMPORTING COMPANY} is required to provide this certification and supporting records to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce), upon request by the respective agency.

(J) I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.

(K) I understand that failure to maintain the required certifications, and/or failure to substantiate the claims made herein, and/or failure to allow CBP and/or Commerce to verify the claims made herein, may result in a de facto determination that all entries to which this certification applies are within the scope of the antidumping duty order on certain uncoated paper from Brazil. I understand that such finding will result in:

(i) Suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the requirement that the importer post applicable antidumping duty cash deposits (as appropriate) equal to the rates determined by Commerce; and

(iii) the revocation of {NAME OF IMPORTING COMPANY}'s privilege to certify future imports of subject-paper rolls from Brazil as not being imported for purposes of further processing into the United States into uncoated paper sheets.

(L) I understand that agents of the importer, such as brokers, are not permitted to make this certification. Where a broker or other party was used to facilitate the entry process, {NAME OF IMPORTING COMPANY} obtained the entry summary number and date of entry summary from that party.

(M) This certification was completed at or prior to the date of entry summary.

(N) I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature
{NAME OF COMPANY OFFICIAL}
{TITLE}

Appendix VI

Certification Requirements: China

If an importer imports subject-paper rolls from China and claims that the subject-paper rolls will not be further processed into uncoated paper sheets covered by the *Orders,* the importer is required to complete and maintain the importer certification attached hereto at Appendix VII and all supporting documentation. Where the importer uses a broker to facilitate the entry process, it should obtain the entry summary number from the broker. Agents of the importer, such as brokers, however, are not permitted to make this certification on behalf of the importer.

All importers of subject-paper rolls from China are eligible for the certification process detailed below. However, entries of subject-paper rolls produced and/or exported by Central National Asia Limited (CNAL), Kingdecor (Zhejiang) Co., Ltd. (Kingdecor), Shandong Sun Paper Industry Joint Stock Co Ltd (Shandong Sun Paper), Sun Paper (Hong Kong) Co., Limited (Sun Paper HK), and Sunpack Paper Products Company (Sunpack), are ineligible for certification.

For entries of subject-paper rolls from China entered, or withdrawn from warehouse, for consumption on or after the date this final determination was signed for which the importer claims that the rolls will not be further processed into uncoated paper subject to the *Orders,* the importer is required to meet the certification and documentation requirements detailed in the certifications in order for no suspension of liquidation and no cash deposit to be required for such entries. Among other requirements detailed below, importers are required to maintain a copy of any certifications, as well as sufficient documentation supporting the certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, production records, invoices, *etc.*) for the later of: (1) A period of five years from the date of entry; or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries.

For all shipments and/or entries for which certifications are required, importers should complete the required certification at or prior to the date of Entry Summary.

Appendix VII

Importer Certification: China

I hereby certify that:

(A) My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY}.

(B) I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of subject-paper rolls produced in the People's Republic of China (China) that entered under entry summary number(s), identified below, and which are covered by this certification. Subject-paper rolls are defined as certain uncoated paper rolls commonly, but not exclusively, known as ''sheeter rolls,'' (rolls with paper that weigh at least 40 grams per square meter but not more than 150 grams per square meter; and paper that either is a white paper with a GE brightness level of 83 +/−1% or higher or is a colored paper) that may be converted into subject merchandise. The uncoated paper rolls are typically, but not exclusively, between 52 and 103 inches wide and 50 inches in diameter. Subject-paper rolls are classified under HTSUS category 4802.55. ''Direct personal knowledge'' refers to facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the importation of the product (*e.g.,* the name of the exporter) in its records.

(C) If the importer is acting on behalf of the first U.S. customer, complete this paragraph, if not put ''NA'' at the end of this paragraph: The imported subject-paper rolls covered by this certification were imported by {NAME OF IMPORTING COMPANY} on behalf of {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER}.

(D) The imported subject-paper rolls covered by this certification were shipped to {NAME OF PARTY TO WHOM MERCHANDISE WAS FIRST SHIPPED IN THE UNITED STATES}, located at {ADDRESS OF SHIPMENT}.

(E) Select appropriate statement below:

____I have direct personal knowledge of the facts regarding the end-use of the imported product because my company is the end-user of the imported product covered by this certification and I certify that the imported subject-paper rolls will not be used to produce subject merchandise. ''Direct personal knowledge'' includes information contained within my company's books and records.

____I have personal knowledge of the facts regarding the end-use of the imported product because my company is not the end-user of the imported product covered by this certification. However, I have been able to contact the end-user of the imported product and confirm that it will not use this product to produce subject merchandise. The end-user of the imported product is {COMPANY NAME}. ''Personal knowledge'' includes facts obtained from another party (*e.g.,* correspondence received by the importer from the end-user of the product).

(F) The imported subject-paper rolls covered by this certification will not be further processed into uncoated paper sheets in the United States.

(G) This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:
Entry Summary Line Item #:
Foreign Seller:
Foreign Seller's Address:
Foreign Seller's Invoice #:
Foreign Seller's Invoice Line Item #:
Producer:
Producer's Address:

(H) I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, production records, invoices, *etc.*) for the later of: (1) A period of five years from the date of entry; or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries.

(I) I understand that {NAME OF IMPORTING COMPANY} is required to provide this certification and supporting records to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce), upon request by the respective agency.

(J) I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.

(K) I understand that failure to maintain the required certifications, and/or failure to substantiate the claims made herein, and/or failure to allow CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are within the scope of the antidumping/countervailing duty orders on certain uncoated paper from China. I understand that such finding will result in:

(i) Suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the requirement that the importer post applicable antidumping duty and/or countervailing duty cash deposits (as appropriate) equal to the rates determined by Commerce; and

(iii) the revocation of {NAME OF IMPORTING COMPANY}'s privilege to certify future imports of subject-paper rolls from China as not being imported for purposes of further processing into the United States into uncoated paper sheets.

(L) I understand that agents of the importer, such as brokers, are not permitted to make this certification. Where a broker or other party was used to facilitate the entry process, {NAME OF IMPORTING COMPANY} obtained the entry summary number and date of entry summary from that party.

(M) This certification was completed at or prior to the date of entry summary.

(N) I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature

{NAME OF COMPANY OFFICIAL}

{TITLE}

Appendix VIII

Certification Requirements: Indonesia

If an importer imports subject-paper rolls from Indonesia and claims that the subject-paper rolls will not be further processed into uncoated paper sheets covered by the *Orders,* the importer is required to complete and maintain the importer certification attached hereto at Appendix IX and all supporting documentation. Where the importer uses a broker to facilitate the entry process, it should obtain the entry summary number from the broker. Agents of the importer, such as brokers, however, are not permitted to make this certification on behalf of the importer.

All importers of subject-paper rolls from Indonesia are eligible for the certification process detailed below, with the exception that entries of subject-paper rolls imported and/or purchased by Advanced Paper Enterprises, Inc., Alliance Converting LLC, Case Paper Company Inc., LinkMax Paper, Midwest Converting, Mohawk Fine Papers Inc., or Northwoods Paper Converting, are ineligible for certification.

For entries of subject-paper rolls from Indonesia entered, or withdrawn from warehouse, for consumption on or after the date these final determinations were signed for which the importer claims that the rolls will not be further processed into uncoated paper subject to the *Orders,* the importer is required to meet the certification and documentation requirements detailed in the certifications in order for no suspension of liquidation and no cash deposit to be required for such entries. Among other requirements detailed below, importers are required to maintain a copy of any certifications, as well as sufficient documentation supporting the certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, production records, invoices, *etc.*) for the later of: (1) A period of five years from the date of entry; or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries.

For all shipments and/or entries for which certifications are required, importers should complete the required certification at or prior to the date of Entry Summary.

Appendix IX

Importer Certification: Indonesia

I hereby certify that:

(A) My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY}.

(B) I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of subject-paper rolls produced in Indonesia that entered under the entry summary number(s), identified below, and which are covered by this certification. Subject-paper rolls are defined as certain uncoated paper rolls commonly, but not exclusively, known as ''sheeter rolls,'' (rolls with paper that weigh at least 40 grams per square meter but not more than 150 grams per square meter; and paper that either is a white paper with a GE brightness level of 83 +/− 1% or higher or is a colored paper) that may be converted into subject merchandise. The uncoated paper rolls are typically, but not exclusively, between 52 and 103 inches wide and 50 inches in diameter. Subject-paper rolls are classified under HTSUS category 4802.55. ''Direct personal knowledge'' refers to facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the importation of the product (*e.g.,* the name of the exporter) in its records.

(C) If the importer is acting on behalf of the first U.S. customer, complete this paragraph, if not put ''NA'' at the end of this paragraph: The imported subject-paper rolls covered by this certification were imported by {NAME OF IMPORTING COMPANY} on behalf of {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER}.

(D) The imported subject-paper rolls covered by this certification were shipped to {NAME OF PARTY TO WHOM MERCHANDISE WAS FIRST SHIPPED IN THE UNITED STATES}, located at {ADDRESS OF SHIPMENT}.

(E) Select appropriate statement below:

____I have direct personal knowledge of the facts regarding the end use of the imported product because my company is the end user of the imported product covered by this certification and I certify that the imported subject-paper rolls will not be used to produce subject merchandise. ''Direct personal knowledge'' includes information contained within my company's books and records.

____I have personal knowledge of the facts regarding the end use of the imported product because my company is not the end user of the imported product covered by this certification. However, I have been able to contact the end user of the imported product and confirm that it will not use this product to produce subject merchandise. The end user of the imported product is {COMPANY NAME} located at {ADDRESS}. ''Personal knowledge'' includes facts obtained from another party (*e.g.,* correspondence received by the importer from the end user of the product).

(F) The imported subject-paper rolls covered by this certification will not be further processed into uncoated paper sheets in the United States, and will not be sold to Advanced Paper Enterprises, Inc., Alliance Converting LLC, Case Paper Company Inc., LinkMax Paper, Midwest Converting, Mohawk Fine Papers Inc., or Northwoods Paper Converting.

(G) This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:
Entry Summary Line Item #:
Foreign Seller:
Foreign Seller's Address:
Foreign Seller's Invoice #:
Foreign Seller's Invoice Line Item #:
Producer:
Producer's Address:

(H) I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, production records, invoices, etc.) for the later of: (1) A period of

five years from the date of entry; or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries.

(I) I understand that {NAME OF IMPORTING COMPANY} is required to provide this certification and supporting records to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce), upon request by the respective agency.

(J) I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.

(K) I understand that failure to maintain the required certifications, and/or failure to substantiate the claims made herein, and/or failure to allow CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are within the scope of the antidumping/countervailing duty orders on certain uncoated paper from Indonesia. I understand that such finding will result in:

(i) Suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the requirement that the importer post applicable antidumping duty and/or countervailing duty cash deposits (as appropriate) equal to the rates determined by Commerce; and

(iii) the revocation of {NAME OF IMPORTING COMPANY}'s privilege to certify future imports of subject-paper rolls from Indonesia as not being imported for purposes of further processing into the United States into uncoated paper sheets.

(L) I understand that agents of the importer, such as brokers, are not permitted to make this certification. Where a broker or other party was used to facilitate the entry process, {NAME OF IMPORTING COMPANY} obtained the entry summary number and date of entry summary from that party.

(M) This certification was completed at or prior to the date of entry summary.

(N) I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature
{NAME OF COMPANY OFFICIAL}
{TITLE}

[FR Doc. 2021–26996 Filed 12–13–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–838, A–557–823, A–549–843, A–552–832]

Polyester Textured Yarn From Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Antidumping Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing the antidumping duty orders on polyester textured yarn from Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam (Vietnam).

DATES: Applicable December 14, 2021.

FOR FURTHER INFORMATION CONTACT: Peter Shaw at (202) 482–0697 or Toni Page at (202) 482–1398 (Indonesia); Daniel Alexander at (202) 482–4313 (Malaysia); Stephanie Berger at (202) 482–2483 (Thailand); and Preston Cox at (202) 482–5041 (Vietnam); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on October 25, 2021, Commerce published its affirmative final determinations in the less-than-fair-value (LTFV) investigations of imports of polyester textured yarn from Indonesia, Malaysia, Thailand, and Vietnam.[1] On December 7, 2021, the ITC notified Commerce of its affirmative final determinations, pursuant to section 735(d) of the Act, that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of the LTFV imports of polyester textured yarn from Indonesia, Malaysia, Thailand, and Vietnam.[2]

Scope of the Orders

The product covered by these orders is polyester textured yarn from Indonesia, Malaysia, Thailand, and Vietnam. For a complete description of the scope of these orders, *see* the appendix to this notice.

Antidumping Duty Orders

On December 7, 2021, in accordance with section 735(d) of the Act, the ITC notified Commerce of its final determinations in these investigations, in which it found that an industry in the United States is materially injured by reason of LTFV imports of polyester textured yarn from Indonesia, Malaysia, Thailand, and Vietnam.[3] Therefore, in accordance with sections 735(c)(2) and 736 of the Act, Commerce is issuing these antidumping duty orders.

Because the ITC determined that imports of polyester textured yarn from Indonesia, Malaysia, Thailand, and Vietnam are materially injuring a U.S. industry, unliquidated entries of subject merchandise from Indonesia, Malaysia, Thailand, and Vietnam, entered into the United States or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties. Therefore, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instructions by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the subject merchandise, for all relevant entries of polyester textured yarn from Indonesia, Malaysia, Thailand, and Vietnam. Antidumping duties will be assessed on unliquidated entries of polyester textured yarn from Indonesia, Malaysia, Thailand, or Vietnam entered, or withdrawn from warehouse, for consumption on or after June 3, 2021, the date of publication of the *Preliminary Determinations,*[4] but will

[1] *See Polyester Textured Yarn from Indonesia: Final Affirmative Determination of Sales at Less Than Fair Value,* 86 FR 58875 (October 25, 2021); *Polyester Textured Yarn from Malaysia: Final Affirmative Determination of Sales at Less-Than Fair-Value,* 86 FR 58869 (October 25, 2021); *Polyester Textured Yarn from Thailand: Final Affirmative Determination of Sales at Less Than Fair Value,* 86 FR 58883 (October 25, 2021); and *Polyester Textured Yarn from the Socialist Republic of Vietnam: Final Affirmative Determination of Sales at Less Than Fair Value,* 86 FR 58877 (October 25, 2021) (*Final Determination Vietnam*) (collectively, *Final Determinations*).

[2] *See* ITC's Letter, dated December 7, 2021.

[3] *Id.*

[4] *See Polyester Textured Yarn from Indonesia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 86 FR 29742 (June 3, 2021); *Polyester Textured Yarn from Malaysia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 86 FR 29748 (June 3, 2021); *Polyester Textured Yarn from Thailand: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 86 FR 29746 (June 3, 2021); *Polyester*

Continued

not include entries occurring after the expiration of the provisional measures period and before publication of the ITC's final injury determinations as further described below.

Continuation of Suspension of Liquidation

In accordance with section 736 of the Act, Commerce will instruct CBP to continue to suspend liquidation of polyester textured yarn from Indonesia, Malaysia, Thailand, and Vietnam as described in the appendix to this notice which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the ITC's notice of final determinations in the **Federal Register**. These instructions suspending liquidation will remain in effect until further notice.

Commerce will also instruct CBP to require cash deposits equal to the estimated weighted-average dumping margins indicated in the tables below. Accordingly, effective on the date of publication of the ITC's final affirmative injury determinations, CBP will require, at the same time as importers would normally deposit estimated duties on the subject merchandise, a cash deposit equal to the rates listed below.[5] For Indonesia, Malaysia, and Thailand, the all-others rate applies to all producers or exporters not specifically listed. For Vietnam, the rate for the Vietnam-wide entity applies to all exporters not specifically listed.

Provisional Measures

Section 733(d) of the Act states that instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except that Commerce may extend the four-month period to no more than six months at the request of exporters representing a significant proportion of exports of the subject merchandise. At the request of exporters accounting for a significant proportion of polyester textured yarn from Indonesia, Malaysia, Thailand, and Vietnam, Commerce extended the four-month period to six months in this proceeding in each of these investigations.[6] The extended provisional measures period began on June 3, 2021, and ended on November 29, 2021.

Therefore, in accordance with section 733(d) of the Act and its practice, Commerce will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of polyester textured yarn from Indonesia, Malaysia, Thailand, and Vietnam entered or withdrawn from warehouse for consumption after November 29, 2021, the final day on which the provisional measures were in effect, until and through the day preceding the date of publication of the ITC's final affirmative injury determinations in the **Federal Register**. Suspension of liquidation and collection of cash deposits will resume on the date of publication of the ITC's final determinations in the **Federal Register**.

Estimated Weighted-Average Dumping Margins

The estimated weighted-average dumping margins are as follows:

INDONESIA

Producer or exporter	Estimated weighted-average dumping margin (percent)
PT. Polyfin Canggih	*26.07
PT. Asia Pacific Fibers Tbk	*26.07
PT. Mutu Gading Tekstil	7.47
All Others	7.47

MALAYSIA

Producer or exporter	Estimated weighted-average dumping margin (percent)
Recron (Malaysia) Sdn. Bhd	8.50
All Others	8.50

THAILAND

Producer or exporter	Estimated weighted-average dumping margin (percent)
Sunflag Thailand Ltd	14.47
Jong Stit Co., Ltd	*56.80
All Others	14.47

VIETNAM

Exporter	Producer	Estimated weighted-average dumping margin (percent)
Century Single Entity[7]	Century Single Entity	2.58
Vietnam-Wide Entity		22.36

*The rate was assigned based on facts available with adverse inferences.

Establishment of the Annual Inquiry Service Lists

On September 20, 2021, Commerce published *Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300 (September 20, 2021) (*Final Rule*). On September 27, 2021, Commerce also published *Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions,* 86 FR 53205 (September 27, 2021) (*Procedural Guidance*). The *Final Rule* and *Procedural Guidance* provide that Commerce will maintain an annual inquiry service list for each order or suspended investigation, and any interested party submitting a scope ruling application or a request for circumvention inquiry shall serve a copy of the application or request on the persons on the annual inquiry service list for that order, as well as any companion order covering the same

Textured Yarn from the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures, 86 FR 29750 (June 3, 2021) (collectively, *Preliminary Determinations*).

[5] *See* section 736(a)(3) of the Act.

[6] *See Preliminary Determinations.*

[7] The Century Single Entity is comprised of Century Synthetic Fiber Corporation and Century Synthetic Fiber Corporation-Branch. *See Final Determination Vietnam,* 86 FR 58877, n.5.

merchandise from the same country of origin.[8]

In accordance with the *Procedural Guidance,* for orders published in the **Federal Register** after November 4, 2021, Commerce will create an annual inquiry service list segment in Commerce's online e-filing and document management system, Antidumping and Countervailing Duty Electronic Service System (ACCESS), available at *https://access.trade.gov,* within five business days of publication of the notice of the order. Each annual inquiry service list will be saved in ACCESS, under each case number, and under a specific segment type called ''AISL-Annual Inquiry Service List.'' [9]

Interested parties who wish to be added to the annual inquiry service list for an order must submit an entry of appearance to the annual inquiry service list segment for the order in ACCESS within 30 days after the date of publication of the order. For ease of administration, Commerce requests that law firms with more than one attorney representing interested parties in an order designate a lead attorney to be included on the annual inquiry service list. Commerce will finalize the annual inquiry service list within five business days thereafter. As mentioned in the *Procedural Guidance,* the new annual inquiry service list will be in place until the following year, when the *Opportunity Notice* for the anniversary month of the order is published.

Commerce may update an annual inquiry service list at any time as needed based on interested parties' amendments to their entries of appearance to remove or otherwise modify their list of members and representatives, or to update contact information. Any changes or announcements pertaining to these procedures will be posted to the ACCESS website at *https://access.trade.gov.*

Special Instructions for Petitioners and Foreign Governments

In the *Final Rule,* Commerce stated that, ''after an initial request and placement on the annual inquiry service list, both petitioners and foreign governments will automatically be placed on the annual inquiry service list in the years that follow.'' [10] Accordingly, as stated above, the petitioners and foreign governments should submit their initial entry of appearance after publication of this notice in order to appear in the first annual inquiry service list for those orders for which they qualify as an interested party. Pursuant to 19 CFR 351.225(n)(3), the petitioners and foreign governments will not need to resubmit their entries of appearance each year to continue to be included on the annual inquiry service list. However, the petitioners and foreign governments are responsible for making amendments to their entries of appearance during the annual update to the annual inquiry service list in accordance with the procedures described above.

Notification to Interested Parties

This notice constitutes the antidumping duty orders with respect to polyester textured yarn from Indonesia, Malaysia, Thailand, and Vietnam pursuant to section 736(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html.*

These orders are issued and published in accordance with section 736(a) of the Act and 19 CFR 351.211(b).

Dated: December 8, 2021.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Orders

The merchandise covered by these orders, polyester textured yarn, is synthetic multifilament yarn that is manufactured from polyester (polyethylene terephthalate). Polyester textured yarn is produced through a texturing process, which imparts special properties to the filaments of the yarn, including stretch, bulk, strength, moisture absorption, insulation, and the appearance of a natural fiber. This scope includes all forms of polyester textured yarn, regardless of surface texture or appearance, yarn density and thickness (as measured in denier), number of filaments, number of plies, finish (luster), cross section, color, dye method, texturing method, or packaging method (such as spindles, tubes, or beams).

The merchandise subject to these orders is properly classified under subheadings 5401.10.0000, 5402.33.3000, and 5402.33.6000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

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BILLING CODE 3510–DS–P

[8] *See Final Rule,* 86 FR 52335–37; and *Procedural Guidance.*

[9] This segment will be combined with the ACCESS Segment Specific Information (SSI) field which will display the month in which the notice of the order or suspended investigation was published in the **Federal Register**, also known as the anniversary month. For example, for an order under case number A–000–000 that was published in the **Federal Register** in January, the relevant segment and SSI combination will appear in ACCESS as ''AISL-January Anniversary.'' Note that there will be only one annual inquiry service list segment per case number, and the anniversary month will be pre-populated in ACCESS.

[10] *See Final Rule,* 86 FR 52335.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Sanctuary System Business Advisory Council: Public Meeting

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of open public meeting.

SUMMARY: Notice is hereby given of a meeting of the Sanctuary System Business Advisory Council (council). The meeting is open to the public, and an opportunity for oral and written comments will be provided.

DATES: The meeting will be held Wednesday, January 19, 2022 from 1 p.m. to 4 p.m. ET, and an opportunity for public comment will be provided around 3:40 p.m. ET. Both times and agenda topics are subject to change.

ADDRESSES: The meeting will be held virtually using Google Meet. To participate, please use the weblink provided below. If you are unable to participate online, you can also connect to the public meeting using the phone number provided.

Weblink: *meet.google.com/jcb-ufgh-rch*

Phone: +1 205–832–1394 PIN: 449 512 063#

To provide an oral public comment during the virtual meeting, please sign up prior to or during the meeting by contacting Katie Denman by phone (240–533–0702) or email (*katie.denman@noaa.gov*). To provide written public comment, please send the comment to Katie Denman prior to or during the meeting via email (*katie.denman@noaa.gov*). Please note, the meeting will not be recorded. However, public comments, including any associated names, will be captured in the minutes of the meeting, will be maintained by the Office of National Marine Sanctuaries (ONMS) as part of its administrative record, and may be subject to release pursuant to the Freedom of Information Act. By signing up to provide a public comment, you agree that these communications, including your name and comment, will be maintained as described here.

FOR FURTHER INFORMATION CONTACT: Katie Denman, Office of National Marine Sanctuaries, 1305 East West Highway, Silver Spring, Maryland 20910 (Phone: 240–533–0702; Email: *katie.denman@noaa.gov*).

SUPPLEMENTARY INFORMATION: ONMS serves as the trustee for a network of underwater parks encompassing more than 620,000 square miles of marine and Great Lakes waters from Washington State to the Florida Keys, and from Lake Huron to American Samoa. The network includes a system of 15 national marine sanctuaries and Papahānaumokuākea and Rose Atoll marine national monuments. National marine sanctuaries protect our Nation's most vital coastal and marine natural and cultural resources, and through active research, management, and public engagement, sustain healthy environments that are the foundation for thriving communities and stable economies.

One of the many ways ONMS ensures public participation in the designation and management of national marine sanctuaries is through the formation of advisory councils. The Sanctuary System Business Advisory Council (council) has been formed to provide advice and recommendations to the Director regarding the relationship of ONMS with the business community. Additional information on the council can be found at *https://sanctuaries.noaa.gov/management/bac/.*

Matters to be discussed: The meeting will include updates from ONMS, a presentation from a sanctuary site, updates from all working groups, and an officer election. For a complete agenda, including times and topics, please visit *http://sanctuaries.noaa.gov/management/bac/meetings.html.*

Authority: 16 U.S.C. Sections 1431, *et seq.*

John Armor,

Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2021–27010 Filed 12–13–21; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648- XB631]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Falls Bridge Replacement Project in Blue Hill, Maine

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the Maine Department of Transportation (MEDOT) to incidentally harass, by Level A and B harassment only, marine mammals during construction activities associated with the Falls Bridge Replacement Project in Blue Hill, Maine.

DATES: This authorization is effective from July 1, 2022 through June 30, 2023.

FOR FURTHER INFORMATION CONTACT: Dwayne Meadows, Ph.D., Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth.

The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On October 7, 2021, NMFS received an application from MEDOT requesting an IHA to take small numbers of seven species (harbor seal (*Phoca vitulina*), gray seal (*Halichoerus grypus*), harp seal (*Pagophilus groenlandicus*), hooded seal (*Cystophora cristata*), harbor porpoise (*Phocoena phocoena*), Atlantic white-sided dolphin (*Lagenorhynchus acutus*) and common dolphin (*Delphinus delphis*)) of marine mammals incidental to pile driving and removal associated with the project. The application was deemed adequate and complete on October 20, 2021. MEDOT's request is for take of a small number of these species by Level B harassment and a small amount of Level A harassment take for harbor seals. Neither MEDOT nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of the Specified Activity

The purpose of the project is to address the structural deficiency of the Falls Bridge and improve public safety. In-water pile driving is needed to create temporary work trestles and support towers and a temporary bridge for vehicle traffic during construction. The work in this application involves the installation of up to 95 24-inch diameter steel piles and then the removal of all piles at the conclusion of the project. The project will take no more than 80 days of in-water pile work. A detailed description of the planned project is provided in the **Federal Register** notice for the proposed IHA (86 FR 61164; November, 5, 2021). Since that time, no changes have been made to the planned activities. Therefore, a detailed description is not provided here. Please

refer to that **Federal Register** notice for the description of the specific activity.

Comments and Responses

A notice of NMFS's proposal to issue an IHA to MEDOT was published in the **Federal Register** on November 5, 2021 (86 FR 61164). That notice described, in detail, MEDOT's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received no public comments.

Changes From the Proposed IHA to Final IHA

There have been no changes from the proposed to the final IHA.

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SARs; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*https://www.fisheries.noaa.gov/find-species*).

Table 1 lists all species with expected potential for occurrence in the project area and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2021). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's 2021 U.S. Atlantic Draft SARs (*e.g.,* Hayes *et al.,* 2021).

TABLE 1—SPECIES THAT SPATIALLY CO-OCCUR WITH THE ACTIVITY TO THE DEGREE THAT TAKE IS REASONABLY LIKELY TO OCCUR

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea						
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae:						
Atlantic white-sided dolphin	*Lagenorhynchus acutus*	Western North Atlantic	-, -; N	93,233 (0.71, 54,443, See SAR).	544	26
Common dolphin	*Delphinus delphis*	Western North Atlantic	-, -; N	172,8974 (0.21, 145,216, 2016).	1452	399
Family Phocoenidae (porpoises):						
Harbor porpoise	*Phocoena phocoena*	Gulf of Maine/Bay of Fundy	-, -; N	95,543 (0.31; 74,034; 2016).	851	217
Order Carnivora—Superfamily Pinnipedia						
Family Phocidae (earless seals):						
Harbor seal	*Phoca vitulina*	Western North Atlantic	-; N	61,336 (0.08; 57,637, 2018).	1,729	339
Gray seal [4]	*Halichoerus grypus*	Western North Atlantic	-; N	27,300 (0.22, 22,785, 2018).	1,389	4,453
Harp seal	*Pagophilus groenlandicus*	Western North Atlantic	-; N	7,600,000 (UNK, 7,100,000, 2019).	426,000	178,573
Hooded seal	*Cystophora cristata*	Western North Atlantic	-; N	UNK (UNK, UNK, See SAR).	UNK	1,680

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual Mortality/Serious Injury (M/SI) often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

[4] The NMFS stock abundance estimate applies to U.S. population only, however the actual stock abundance is approximately 505,000. The PBR value is estimated for the U.S. population, while the M/SI estimate is provided for the entire gray seal stock (including animals in Canada).

Harbor seal, gray seal, harbor porpoise, Atlantic white-sided dolphin and common dolphin spatially co-occur with the activity to the degree that take is reasonably likely to occur, and we have proposed authorizing take of these species. Harp seal and hooded seal are rare in the project area but could occur and we have proposed authorizing take of these species. All species that could potentially occur in the proposed survey areas are included in the MEDOT's IHA application (see application, Section 3). Humpback whale, North Atlantic right whale, minke whale, sei whale and fin

whale could potentially occur in the area. However the spatial and temporal occurrence of these species is very rare, typically further offshore, the species are readily observed, and the applicant would shut down pile driving if they enter the project area (see Monitoring and Reporting section). Thus take is not expected to occur, and they are not discussed further.

A detailed description of the of the species likely to be affected by the project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (86 FR 61164; November 5, 2021); since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to NMFS' website (*https://www.fisheries.noaa.gov/find-species*) for generalized species accounts.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from MEDOT's construction activities have the potential to result in behavioral harassment of marine mammals in the vicinity of the survey area. The notice of proposed IHA (86 FR 61164; November 5, 2021) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of underwater noise from MEDOT's construction on marine mammals and their habitat. That information and analysis is incorporated by reference into this final IHA determination and is not repeated here; please refer to the notice of proposed IHA (86 FR 61164; November 5, 2021).

Estimated Take

This section provides an estimate of the number of incidental takes authorized through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would primarily be by Level B harassment, as use of the acoustic sources has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for Level A harassment to result, primarily for phocids because predicted auditory injury zones are larger than for other groups and harbor seals are common. Auditory injury is unlikely to occur for other species/groups. The mitigation and monitoring measures are expected to minimize the severity of the taking to the extent practicable. As described previously, no mortality is anticipated or authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Due to the lack of marine mammal density data available for this location, NMFS relied on local occurrence data and group size to estimate take for some species. Below, we describe the factors considered here in more detail and present the proposed take estimate.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 decibels (dB) re 1 microPascal (µPa) (root mean square (rms)) for continuous (*e.g.,* vibratory pile-driving) and above 160 dB re 1 µPa (rms) for non-explosive impulsive (*e.g.,* impact pile driving) or intermittent (*e.g.,* scientific sonar) sources.

MEDOT's proposed activity includes the use of continuous (vibratory hammer and Down-the-Hole (DTH) systems) and impulsive (impact pile-driving) sources, and therefore the 120 and 160 dB re 1 µPa (rms) thresholds are applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). MEDOT's activity includes the use of impulsive (impact pile-driving and DTH) and non-impulsive (vibratory hammer and DTH) sources.

These thresholds are provided in Table 2. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

TABLE 2—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	*Cell 10:* $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 µPa, and cumulative sound exposure level (L_E) has a reference value of 1µPa^{2}s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

The sound field in the project area is the existing background noise plus additional construction noise from the proposed project. Marine mammals are expected to be affected via sound generated by the primary components of the project (*i.e.,* impact and vibratory pile driving, and DTH).

In order to calculate distances to the Level A harassment and Level B harassment sound thresholds for the methods and piles being used in this project, NMFS used acoustic monitoring data from other locations to develop source levels for the various pile types, sizes and methods (Table 3).

TABLE 3—PROJECT SOUND SOURCE LEVELS

Method	Estimated noise levels (dB)	Source
DTH—24-inch impulsive (Level A)	154 SELss	Denes *et al.* (2016).
DTH—8-inch impulsive (Level A)	144 SELss	Reyff (2020).
DTH—non-impulsive (Level B) All sizes	166 dB RMS	Denes *et al.* (2016).
Impact—24-inch	203 Pk, 177 SEL	Caltrans (2015).
Vibratory—24-inch	165 RMS	Caltrans (2015).

Note: SEL = single strike sound exposure level; RMS = root mean square.

Level B Harassment Zones

Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

TL = B * Log10 (R1/R2),

where:

TL = transmission loss in dB
B = transmission loss coefficient; for practical spreading equals 15
R1 = the distance of the modeled SPL from the driven pile, and
R2 = the distance from the driven pile of the initial measurement

The recommended TL coefficient for most nearshore environments is the practical spreading value of 15. This value results in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions, which is the most appropriate assumption for MEDOT's proposed activity in the absence of specific modelling.

MEDOT determined underwater noise would fall below the behavioral effects threshold of 160 dB RMS for impact driving at 1,585 m and the 120 dB rms threshold for vibratory driving at 10,000 m and all diameters of holes created by DTH at 11,660 m (Table 4). It should be noted that based on the bathymetry and geography of the project area, sound will not reach the full distance of the harassment isopleths in all directions (see Application Figures 6–3 and 6–4).

TABLE 4—LEVEL A AND LEVEL B ISOPLETHS (METERS) FOR EACH METHOD

Method	Piles per day	MF	HF	Phocid	Level B
DTH—24-inch	1	6	199	89	11,660
	2	10	315	142	
	3	13	413	186	
DTH—8-inch	1	2	43	20	
	2	2	68	31	

TABLE 4—LEVEL A AND LEVEL B ISOPLETHS (METERS) FOR EACH METHOD—Continued

Method	Piles per day	MF	HF	Phocid	Level B
	3	3	89	40	
Impact—24-inch	1	1	35	16	1,585
	2	2	56	25	
	3	3	73	33	
Vibratory—24-inch	3	2	25	11	10,000

Level A Harassment Zones

When the NMFS Technical Guidance (2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which may result in some degree of overestimate of take by Level A harassment. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For stationary sources such as pile driving or removal and DTH using any of the methods discussed above, NMFS User Spreadsheet predicts the closest distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would not incur PTS. We used the User Spreadsheet to determine the Level A harassment isopleths. Inputs used in the User Spreadsheet or models are reported in Table 5 and the resulting isopleths are reported in Table 4 for each of the construction methods and scenarios.

TABLE 5—USER SPREADSHEET INPUTS

Method	Piles per day	Strikes per pile or duration (min)
DTH—24-inch	1–3	54,000
DTH—8-inch	1–3	54,000
Impact—24-inch	1–3	20
Vibratory—24-inch	3	30

Marine Mammal Occurrence and Take Calculation and Estimation

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations. Here we describe how the information provided above is brought together to produce a quantitative take estimate. The main information used to inform take calculations is the Shaw Institute (2018) monitoring study commissioned for this project. Density of animals from that study was calculated for either side of the bridge and was applied to the size of the Level B harassment zones (see Application Section 6.3 for full details). A summary of proposed take is in Table 6.

Atlantic White-Sided Dolphin

Density data for this species in the project vicinity do not exist as no Atlantic white-sided dolphin were seen in the Shaw Institute (2018) study. Atlantic white-sided dolphins do not generally occur in the shallow, inland bays and estuaries of Maine. However, some could occur in rare circumstances. To be precautionary, we authorize take for two groups of 20 animals over the course of the project. Therefore, we authorize 40 Level B harassment takes of Atlantic white-sided dolphins. No takes by Level A harassment are expected or authorized because we expect MEDOT will effectively shutdown for Atlantic white-sided dolphins at the full extent of the very small Level A harassment zones.

Common Dolphin

Density data for this species in the project vicinity do not exist as no common dolphin were seen in the Shaw Institute (2018) study. Common dolphins do not generally occur in the shallow, inland bays and estuaries of Maine. However, some could occur in rare circumstances. As with Atlantic white-sided dolphins above, to be precautionary, we authorize take for two groups of 20 animals over the course of the project. Therefore, we authorize 40 Level B harassment takes of common dolphins. No takes by Level A harassment are expected or authorized because we expect MEDOT will effectively shutdown for common dolphins at the full extent of the very small Level A harassment zones.

Harbor Porpoise

The peak month of observation from Shaw Institute (2018) was May when the equivalent of 40 harbor porpoise per day would be observed in the Level B harassment zone for DTH. With 80 days of in-water work for the project we estimate potential Level B harassment take events at 3,200 for harbor porpoise. No takes by Level A harassment are expected authorized because we expect MEDOT will effectively shutdown for harbor porpoises at the full extent of the small Level A harassment zones.

Harbor Seal

The peak month of observation from Shaw Institute (2018) was August when the equivalent of 99 seals per day would be observed in the Level B harassment zone for DTH. With 80 days of in-water work for the project we estimate potential Level B harassment zone exposures for harbor seals at 7,920.

Because of the larger size of the Level A harassment zones for 24-inch DTH and the abundance of harbor seals, we authorize 2 of the above assumed 99 takes per day by Level A harassment for the 48 days of possible DTH activity. Thus of the 7,920 assumed harbor seal exposures we authorize 96 Level A harassment takes and 7,824 Level B harassment takes.

Gray Seal

The peak month of observation from Shaw Institute (2018) was July when the equivalent of 4 seals per day would be observed in the Level B harassment zone for DTH. With 80 days of in-water work for the project we estimate potential Level B harassment takes for gray seals at 320. No takes by Level A harassment are expected or authorized because we expect MEDOT will effectively shutdown for gray seals at the full extent of the small Level A harassment zones.

Harp Seal

Density data for this species in the project vicinity do not exist as no harp seals were seen in the Shaw Institute (2018) study. Most sightings on record in Maine occur during the winter months when transient individuals extend their range south in search of food. To be precautionary, we authorize 1 take per month of harp seals. The project has 80 days of in water work equivalent to 16 5-day work weeks or 4 months. Therefore, we authorize 4 Level B harassment takes of harp seals. No takes by Level A harassment are expected or authorized because we expect MEDOT will effectively shutdown for harp seals at the full extent of the small Level A harassment zones.

Hooded Seal

Density data for this species in the project vicinity also do not exist as no hooded seals were seen in the Shaw Institute (2018) study. Most sightings on record in Maine occur during the winter months when transient individuals extend their range south in search of food. As with harp seals, above, to be precautionary, we authorize 1 take per month of hooded seals. Therefore, we authorize 4 Level B harassment takes of hooded seals. No takes by Level A harassment are expected or authorized because we expect MEDOT will effectively shutdown for hooded seals at the full extent of the small Level A harassment zones.

TABLE 6—AUTHORIZED AMOUNT OF TAKING, BY LEVEL A HARASSMENT AND LEVEL B HARASSMENT, BY SPECIES AND STOCK AND PERCENT OF TAKE BY STOCK

Common name	Scientific name	Stock	Level A	Level B	Percent of stock
Harbor porpoise	*Phocoena phocoena*	Gulf Maine/Bay of Fundy	0	3,200	3.3
Atlantic white-sided dolphin	*Lagenorhynchus acutus*	Western North Atlantic	0	40	<0.1
Common dolphin	*Delphinus delphis*	Western North Atlantic	0	40	<0.1
Harbor seal	*Phoca vitulina*	Western North Atlantic	96	7,824	12.8
Gray seal	*Halichoerus grypus*	Western North Atlantic	0	320	<0.1
Harp seal	*Pagophilus groenlandicus*	Western North Atlantic	0	4	<0.1
Hooded seal	*Cystophora cristata*	Western North Atlantic	0	4	NA

NA—not available as there is no official stock size estimate.

Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

The following mitigation measures are in the IHA:

- Avoid direct physical interaction with marine mammals during construction activity. If a marine mammal comes within 10 m of such activity, operations must cease and vessels must reduce speed to the minimum level required to maintain steerage and safe working conditions;
- Conduct training between construction supervisors and crews and the marine mammal monitoring team and relevant MEDOT staff prior to the start of all pile driving and DTH activity and when new personnel join the work, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood;
- Pile driving activity must be halted upon observation of either a species for which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met, entering or within the harassment zone;
- MEDOT will establish and implement the shutdown zones indicated in Table 7. The purpose of a shutdown zone is generally to define an area within which shutdown of the activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Shutdown zones typically vary based on the activity type and marine mammal

hearing group. To simplify implementation of shutdown zones MEDOT has proposed to implement shutdown zones for two groups of marine mammals, cetaceans and pinnipeds, with the shutdown zone in each group being the largest of the shutdown zones for any of the hearing groups contained within that group. MEDOT has also voluntarily proposed to increase shutdown sizes above those we would typically require in order to be precautionary and protective to marine mammals. They have proposed to round-up shutdown zone sizes to the next highest 50 m from the distances in Table 4. For comparison purposes, Table 7 shows both the minimum shutdown zones we would normally require and the shutdown zones MEDOT proposes to implement. NMFS proposes to include the latter in the requested IHA;

- Employ Protected Species Observers (PSOs) and establish monitoring locations as described in the Marine Mammal Monitoring Plan and Section 5 of the IHA. MEDOT must monitor the project area to the maximum extent possible based on the required number of PSOs, required monitoring locations, and environmental conditions. For all DTH, pile driving and removal at least one PSO must be used. The PSO will be stationed as close to the activity as possible;
- The placement of the PSOs during all pile driving and removal and DTH activities will ensure that the entire shutdown zone is visible during pile installation. Should environmental conditions deteriorate such that marine mammals within the entire shutdown zone will not be visible (*e.g.,* fog, heavy rain), pile driving and removal must be delayed until the PSO is confident marine mammals within the shutdown zone could be detected;
- Monitoring must take place from 30 minutes prior to initiation of pile driving activity through 30 minutes post-completion of pile driving activity. Pre-start clearance monitoring must be conducted during periods of visibility sufficient for the lead PSO to determine the shutdown zones clear of marine mammals. Pile driving may commence following 30 minutes of observation when the determination is made;
- If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone or 15 minutes have passed without re-detection of the animal; and
- MEDOT must use soft start techniques when impact pile driving. Soft start requires contractors to provide an initial set of three strikes at reduced energy, followed by a 30-second waiting period, then two subsequent reduced-energy strike sets. A soft start must be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer;

TABLE 7—MINIMUM REQUIRED SHUTDOWN ZONES (METERS) BY HEARING GROUP AND VOLUNTARY PLANNED SHUTDOWN ZONES FOR CETACEANS AND PINNIPEDS FOR EACH METHOD

Method	Piles per day	MF	HF	Phocid	Cetacean	Pinniped
DTH—24-inch	1	10	200	90	200	100
	2	10	320	150	350	200
	3	20	420	190	450	200
DTH—8-inch	1	10	50	20	100	50
	2	10	70	40	100	50
	3	10	90	40	100	50
Impact—24-inch	1	10	40	20	50	50
	2	10	60	30	100	50
	3	10	80	40	100	50
Vibratory—24-inch	3	10	30	20	50	50

Note: First three columns are what NMFS would consider appropriate in this circumstance, and the last two are what the applicant has proposed and what NMFS includes in the IHA.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has determined that the mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species,

acoustic habitat, or other important physical components of marine mammal habitat); and

- Mitigation and monitoring effectiveness.

Visual Monitoring

- Monitoring must be conducted by qualified, NMFS-approved PSOs, in accordance with the following: PSOs must be independent (*i.e.,* not construction personnel) and have no other assigned tasks during monitoring periods. At least one PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization. Other PSOs may substitute other relevant experience, education (degree in biological science or related field), or training. PSOs must be approved by NMFS prior to beginning any activity subject to this IHA;
- PSOs must record all observations of marine mammals as described in the Section 5 of the IHA and the Marine Mammal Monitoring Plan, regardless of distance from the pile being driven or DTH activity. PSOs shall document any behavioral reactions in concert with distance from piles being driven or removed;

PSOs must have the following additional qualifications:

- Ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior; and
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary;
- MEDOT must establish the following monitoring locations. For all pile driving and DTH activities, a minimum of one PSO must be assigned to the active pile driving or DTH location to monitor the shutdown zones and as much of the Level A and Level B harassment zones as possible. When a vibratory hammer or DTH is used a second PSO must be located in the Level B harassment zone at one of two shoreline stations east of the bridge (see map in application Figure 13–1).

Reporting

A draft marine mammal monitoring report will be submitted to NMFS within 90 days after the completion of pile driving and removal activities, or 60 days prior to a requested date of issuance of any future IHAs for projects at the same location, whichever comes first. The report will include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the report must include:

- Dates and times (begin and end) of all marine mammal monitoring;
- Construction activities occurring during each daily observation period, including the number and type of piles driven or removed and by what method (*i.e.,* impact or cutting) and the total equipment duration for cutting for each pile or total number of strikes for each pile (impact driving);
- PSO locations during marine mammal monitoring;
- Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance;
- Upon observation of a marine mammal, the following information: Name of PSO who sighted the animal(s) and PSO location and activity at time of sighting; Time of sighting; Identification of the animal(s) (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species; Distance and bearing of each marine mammal observed relative to the pile being driven for each sighting (if pile driving was occurring at time of sighting); Estimated number of animals (min/max/best estimate); Estimated number of animals by cohort (adults, juveniles, neonates, group composition, etc.); Animal's closest point of approach and estimated time spent within the harassment zone; Description of any marine mammal behavioral observations (*e.g.,* observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.,* no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);
- Number of marine mammals detected within the harassment zones, by species; and
- Detailed information about any implementation of any mitigation triggered (*e.g.,* shutdowns and delays), a description of specific actions that ensued, and resulting changes in behavior of the animal(s), if any.

If no comments are received from NMFS within 30 days, the draft final report will constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments.

Reporting Injured or Dead Marine Mammals

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the IHA-holder must immediately cease the specified activities and report the incident to the Office of Protected Resources (OPR) (*PR.ITP.MonitoringReports@noaa.gov*), NMFS and to Greater Atlantic Regional Stranding Coordinator as soon as feasible. If the death or injury was clearly caused by the specified activity, MEDOT must immediately cease the specified activities until NMFS is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of the IHA. The IHA-holder must not resume their activities until notified by NMFS. The report must include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact

finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

Pile driving and removal and DTH activities have the potential to disturb or displace marine mammals. Specifically, the project activities may result in take, in the form of Level B harassment from underwater sounds generated from pile driving and removal and DTH for all species and a small amount of Level A harassment take for harbor seals. Potential takes could occur if individuals are present in the ensonified zone when these activities are underway.

To avoid repetition, the discussion of our analyses applies to all the species listed in Table 6, given that the anticipated effects of this activity on these different marine mammal stocks are expected to be similar. There is little information about the nature or severity of the impacts, or the size, status, or structure of any of these species or stocks that would lead to a different analysis for this activity.

The takes from Level A and Level B harassment would be due to potential behavioral disturbance, TTS, and PTS. No serious injury or mortality is anticipated given the nature of the activity and measures designed to minimize the possibility of injury to marine mammals. The potential for harassment is minimized through the construction method and the implementation of the planned mitigation measures (see Proposed Mitigation section).

Many of the Level A harassment zones identified in Table 6 are based upon an animal exposed to pile driving or DTH multiple piles per day. Considering the short duration to impact drive or DTH each pile and breaks between pile installations (to reset equipment and move pile into place), this means an animal would have to remain within the area estimated to be ensonified above the Level A harassment threshold for multiple hours. This is highly unlikely given marine mammal movement throughout the area. If an animal was exposed to accumulated sound energy, the resulting PTS would likely be small (*e.g.,* PTS onset) at lower frequencies where pile driving energy is concentrated, and unlikely to result in impacts to individual fitness, reproduction, or survival.

The nature of the pile driving project precludes the likelihood of serious injury or mortality. For all species and stocks, take would occur within a limited, confined area (adjacent to the Falls Bridge) of the stock's range. Level A and Level B harassment will be reduced to the level of least practicable adverse impact through use of mitigation measures described herein. Further the amount of take authorized is small when compared to stock abundance.

Behavioral responses of marine mammals to pile driving at the project site, if any, are expected to be mild and temporary. Marine mammals within the Level B harassment zone may not show any visual cues they are disturbed by activities (as noted during modification to the Kodiak Ferry Dock) or could become alert, avoid the area, leave the area, or display other mild responses that are not observable such as changes in vocalization patterns. Given the short duration of noise-generating activities per day, any harassment would be temporary. There are no other areas or times of known biological importance for any of the affected species.

In addition, it is unlikely that minor noise effects in a small, localized area of habitat would have any effect on the stocks' ability to recover. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activities will have only minor, short-term effects on individuals. The specified activities are not expected to impact rates of recruitment or survival and will therefore not result in population-level impacts.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized;
- Authorized Level A harassment of harbor seals would be very small amounts and of low degree;
- No important habitat areas have been identified within the project area;
- For all species, the project is a very small and peripheral part of their range;
- MEDOT would implement mitigation measures such as soft-starts, and shut downs.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The amount of take NMFS authorizes is below one third of the estimated stock abundance for all species and stocks (in fact, take of individuals is less than 10 percent of the abundance of the affected stocks except for harbor seals where take is 12.8 percent, see Table 6). This is likely a conservative estimate because they assume all takes are of different individual animals which is likely not the case. Some individuals may return multiple times in a day, but PSOs would count them as separate takes if they cannot be individually identified.

In summary and as described above, the following factors primarily support our determination regarding the

incidental take of small numbers of a species or stock:

- The take of marine mammal stocks authorized for take comprises less than 10 percent of any stock abundance (with the exception of harbor seals); and
- Many of the takes would be repeats of the same animal and it is likely that a number of individual animals could be taken 10 or more times.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

Endangered Species Act

Section 7(a)(2) of the ESA (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Authorization

NMFS has issued an IHA to MEDOT for the potential harassment of small numbers of seven marine mammal species incidental to the Falls Bridge Replacement Project in Blue Hill, Maine, provided the previously mentioned mitigation, monitoring and reporting requirements are followed.

Dated: December 9, 2021.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–27038 Filed 12–13–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Pacific Islands Logbook Family of Forms

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before February 14, 2022.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *adrienne.thomas@noaa.gov.* Please reference OMB Control Number 0648–0214 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Walter Ikehara, Fishery Information Specialist, NMFS Pacific Islands Regional Office, *walter.ikehara@noaa.gov* or (808) 725–5175.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for revision of a currently approved information collection. The revision will merge the logbook and transshipment log from the currently approved collection 0648–0462 Pacific Islands Coral Reef Ecosystems Logbook and Reporting and the logbook from the currently approved collection 0648–0577 Non-commercial Permit and Reporting Requirements in the Main Hawaiian Islands Bottomfish Fishery into the 0648–0214 information collection that includes logbook and reporting from other Federally-managed fisheries in the Pacific Islands Region (PIR). After this revision is approved, 0648–0462 and 0648–0577 will be discontinued.

Vessel operators or owners in Federally-managed fisheries in the PIR are required to provide certain information about their fishing activities, catch, and interactions with protected species by submitting reports to NMFS, per 50 CFR part 665.14. These data are needed to determine the condition of fish stocks and whether current management measures are having the intended effects, to evaluate the benefits and costs of changes in management measures, and to monitor and respond to accidental takes of endangered and threatened species, including seabirds, sea turtles, and marine mammals.

The reports are submitted using paper logbooks or electronic logbooks (computer tablets or other devices) to the NMFS Pacific Islands Fisheries Science Center. The Hawaii pelagic longline fishery and large vessels (50 ft or longer) in the American Samoa pelagic longline fishery will submit reports using electronic logbooks, although paper logbooks will be used if there are equipment or transmission failures. Electronic logbooks collect the same information as paper logbooks. All other PIR fisheries use only paper logbooks.

Longline vessel operators are also required to submit pre-trip notifications, including information on trip type,

departure time, and transit through a protected species zone per 50 CFR 665.803. Other fisheries are required to submit notifications of trip return, unloading, or sales reports per regulations in multiple Subparts of 50 CFR 665.

II. Method of Collection

Respondents will report their catch using paper logbooks or electronic logbooks. Methods of submittal include submission by mail or facsimile for paper logbooks, and via the vessel monitoring system or online for electronic logbook data. Notifications may be made by phone or email.

III. Data

OMB Control Number: 0648–0214.

Form Number(s): None.

Type of Review: Regular (Revision of a currently approved collection of information).

Affected Public: Individuals or households, and small businesses.

Estimated Number of Respondents: 667.

Estimated Time per Response: From 5 to 35 minutes per report or notification, depending on type; average 16 minutes per response.

Estimated Total Annual Burden Hours: 6,926.

Estimated Total Annual Cost to Public: $663.

Respondent's Obligation: Mandatory.

Legal Authority: 50 CFR 665.

IV. Request for Comments

We are soliciting public comments to permit the Department to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this information collection request. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–26950 Filed 12–13–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB577]

Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Exempted Fishing Permit Applications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments.

SUMMARY: The Regional Administrator, West Coast Region, NMFS, has made a preliminary determination that applications received from Exempted Fishing Permit (EFP) sponsors to renew the Electronic Monitoring EFP program warrant further consideration. NMFS requests public comment on the applications.

DATES: Comments must be received by December 29, 2021.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2021–0115, by the following method:

- *Electronic Submissions:* Submit all public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov* and enter NOAA–NMFS–2021–0115 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments. The EFP applications will be available under Supporting and Related Materials through the same link.
- *Instructions:* Comments must be submitted by the above method to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Justin Kavanaugh, West Coast Region, NMFS, (206) 526–4140, *justin.kavanaugh@noaa.gov.*

SUPPLEMENTARY INFORMATION: This action is consistent with Pacific Coast Groundfish Fishery Management Plan and the regulations implementing the Magnuson-Stevens Fishery Conservation and Management Act at 50 CFR 600.745, which state that EFPs may be used to authorize fishing activities that would otherwise be prohibited.

On January 2, 2015 (80 FR 30), NMFS announced notice of receipt of four EFP applications to test electronic monitoring (EM) in lieu of human observers. NMFS approved the EFPs in 2015 and renewed them annually in subsequent years through 2021, in order to further test the feasibility and cost-effectiveness of the EM EFP program.

On June 28, 2019 (84 FR 31146), at the recommendation of the Pacific Fishery Management Council (Council), NMFS published a final rule that authorized the use of EM in place of human observers to meet requirements for 100-percent at-sea monitoring for catcher vessels in the groundfish trawl catch share fishery (Trawl Rationalization Program). EM video systems are used to record catch and discards by the vessel crew while at sea. Vessel operators are responsible for recording catch and discards in a logbook, which is then used to debit individual fishing quota (IFQ) accounts and cooperative allocations. Recently, the Council recommended, and NMFS implemented, a delay to the start of the regulatory program (86 FR 55525; October 6, 2021). The Council recommended the renewal of the EM EFPs during this delay to provide more time for industry and the Pacific States Marine Fisheries Commission (PSMFC) to test a model for industry to fund PSMFC for review of video from their fishing trips and to further evaluate the costs of the regulatory program. PSMFC has been reviewing video data from the experimental EM EFP program, funded by NMFS, since 2015.

NMFS received applications to renew the EM EFPs for 2022 and 2023. A summary of each EFP application is provided below.

• *California Groundfish Collective EM EFP:* In partnership with the Nature Conservancy, eligible vessels participating in the Collective would further test the feasibility of using at-sea EM for vessels using fixed gear or bottom trawl gear types. Fixed gear will operate under maximized retention and bottom trawl gear will operate under optimized retention. All fishing will be conducted south of Cape Mendocino, CA. Fishing may target all species authorized by the Trawl Rationalization Program. The applicants have not requested any exemptions from quota limits, or gear or area restrictions, and all catch will be covered by the vessels' IFQ, Individual Bycatch Quota (IBQ), or cooperative allocation. According to the applicants, the EFP renewal aims to achieve five goals:

1. Identify individual and overall cost components of implementing EM on fixed gear and bottom trawl vessels.
2. Establish best practices for discard control points on bottom trawl vessels using optimized retention.
3. Establish best practices for discard protocols, particularly for non-IFQ species and flor low-attainment IFQ species that are identifiable.
4. Identify improvements to EM systems and protocols to inform regulations that will allow for the use of EM.
5. Inform determination of final steps to implement EM for accountability in a way that will provide economic relief and operational flexibility to the groundfish IFQ program while maintaining individual accountability and the integrity of the IFQ program.

• *Fixed Gear EM EFP:* Under this EFP renewal, eligible fixed gear vessels with a trawl-endorsed groundfish limited entry permit assignment would continue to test the economic and operational feasibility of using EM in lieu of human observers for 100 percent at-sea monitoring of groundfish IFQ trips. The applicants seek to lower operating costs and identify more flexible catch handling methods under the renewed EFP. Applicants will target species authorized by the Trawl Rationalization Program, specifically sablefish (North and South of 36 degrees) off the coasts of Washington, Oregon, and California. The applicants have not requested any exemptions from quota limits, or gear or area restrictions, and all catch will be covered by the vessels' IFQ, IBQ, or cooperative allocation.

• *Trawl Gear EM EFP:* The Midwater Trawlers Cooperative and United Catcher Boats seek to continue testing the cost-effectiveness and operational efficiency of using EM in lieu of human observers while still providing the required 100 percent monitoring of catch and discards, for at-sea mothership catcher vessels and vessels delivering shoreside. Additionally, the application incorporates the midwater non-whiting and bottom trawl gears for EM EFP trips. The use of EM for bottom trawl gear was previously evaluated under the Leipzig EM EFP, which first began in 2015. Under the new sponsorship, bottom trawl EM trips would be tested under this overarching EFP. Fishing may occur in all times and locations, using all gear types, and targeting species authorized by the Trawl Rationalization Program. The applicants have not requested any exemptions from quota limits, or gear or area restrictions, and all catch will be covered by the vessels' IFQ, IBQ, or cooperative allocation.

The Regional Administrator has made a preliminary determination that the applications described above contain all of the required information and constitute an activity appropriate for further consideration. Following the conclusion of the public comment period and review of public comment, NMFS may approve and issue permits for the EFP projects. If approved, NMFS intends to issue the permits for two years, 2022 and 2023, without issuing another **Federal Register** notice. NMFS would issue the permits for the EFP project to the vessel owner or designated representative as the ''EFP holder.'' NMFS intends to use an adaptive management approach in which NMFS may revise requirements and protocols to achieve the EM EFP goals and improve the program without issuing another **Federal Register** notice, provided that the modifications fall within the scope of the impacts of the original EFP.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 8, 2021.

Ngagne Jafnar Gueye,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–26959 Filed 12–13–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; International Work Sharing Program

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of information collection; request for comment.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651–0079 (International Work Sharing Program). The purpose of this notice is to allow 60 days for public comment preceding submission of the information collection to OMB.

DATES: To ensure consideration, comments regarding this information collection must be received on or before February 14, 2022.

ADDRESSES: Interested persons are invited to submit written comments by any of the following methods. Do not submit Confidential Business Information or otherwise sensitive or protected information.

• *Email: InformationCollection@uspto.gov.* Include ''0651–0079 comment'' in the subject line of the message.

• *Federal Rulemaking Portal: http://www.regulations.gov.*

• *Mail:* Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Request for additional information should be directed to Michael Arguello, International Worksharing Planning and Implementation, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–270–7876; or by email at *Michael.Arguello@uspto.gov* with ''0651–0079 comment'' in the subject line. Additional information about this information collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States Patent and Trademark Office (USPTO) established a Work Sharing Pilot Program in

conjunction with the Japan Patent Office (JPO) and the Korean Intellectual Property Office (KIPO) to study how the exchange of search results between offices for corresponding counterpart applications improves patent quality and facilitates the examination of patent applications in both offices. Under this Work Sharing Pilot Program, two Collaborative Search Pilot (CSP) programs—USPTO–JPO and USPTO–KIPO—have been implemented. Through their respective CSP(s), each office concurrently conducts searches on corresponding counterpart applications. Each office's search results are exchanged following these concurrent searches, which provides examiners with a comprehensive set of art before them at the commencement of examination.

Work sharing between Intellectual Property (IP) offices is critical for increasing the efficiency and quality of patent examination worldwide. The exchange of information and documents between IP offices also benefits applicants by promoting compact prosecution, reducing pendency, and supporting patent quality by reducing the likelihood of inconsistencies in patentability determinations among IP offices when considering corresponding counterpart applications. The gains in efficiency and quality are achieved through a collaborative work sharing approach to the evaluation of patent claims. As a result of this exchange of search reports, the examiners in both offices may have a more comprehensive set of references before them when making an initial patentability determination.

This information collection is necessary so that applicants that file applications in the USPTO, JPO, and KIPO may participate in the Work Sharing Pilot Program. The Program enables its participants to engage in the exchange of IP documents between the said countries to facilitate efficient worldwide patent examinations. This information collection is comprised of three items: The Petition for Participation in the CSP Program Between the JPO and the USPTO; the Petition for Participation in the CSP Program Between the KIPO and the USPTO; and the CSP Survey. The Petitions for Participation are used by patent applicants to request participation in the CSP Program. The CSP Survey is used to collect feedback on the program's value, monitor usage of the program, and to measure the benefits the program provides to participants.

II. Method of Collection

The forms associated with this information collection may be downloaded from the USPTO website in Portable Document Format (PDF) and filled out electronically. Requests to participate in the International Work Sharing Program must be submitted online using EFS-Web, the USPTO's web-based electronic filing system.

III. Data

OMB Control Number: 0651–0079.

Forms: (SB = Specimen Book).

- PTO/SB/437 (Petition to Make Special Under the Expanded Collaborative Search Pilot Program).
- PTO/SB/438 (Collaborative Search Pilot Program Survey).

Type of Review: Extension and revision of a currently approved information collection.

Affected Public: Private sector; individuals or households.

Respondent's Obligation: Required to obtain or retain benefits.

Estimated Number of Annual Respondents: 300 respondents.

Estimated Number of Annual Responses: 300 responses.

Estimated Time per Response: The USPTO estimates that the responses in this information collection will take the public approximately between 5 minutes (0.08 hours) and 3 hours to complete. This includes the time to gather the necessary information, create the document, and submit the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 462 hours.

Estimated Total Annual Respondent Hourly Cost Burden: $200,970.

TABLE 1—TOTAL BURDEN HOURS AND HOURLY COSTS TO PRIVATE SECTOR RESPONDENTS

Item No.	Item	Estimated annual respondents (a)	Estimated responses per respondent (b)	Estimated annual responses (a) × (b) = (c)	Estimated time for response (hour) (d)	Estimated burden (hour/year) (c) × (d) = (e)	Rate[1] ($/hour) (f)	Estimated annual respondent cost burden (e) × (f) = (g)
1	Petition for Participation in the Collaborative Search Pilot (CSP) Program Between the Japan Patent Office (JPO) and the USPTO.	37	1	37	3	111	$435	$48,285
2	Petition for Participation in the Collaborative Search Pilot (CSP) Program Between the Korean Intellectual Property Office (KPO) and the USPTO.	75	1	75	3	225	435	97,875
3	CSP Survey	112	1	112	0.08 (5 minutes)	9	435	3,915
	Totals	224		224		345		150,075

[1] 2021 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); pg. F–27. The USPTO uses the average billing rate for intellectual property attorneys in private firms which is $435 per hour.

TABLE 2—TOTAL BURDEN HOURS AND HOURLY COSTS TO PRIVATE SECTOR RESPONDENTS

Item No.	Item	Estimated annual respondents (a)	Estimated responses per respondent (b)	Estimated annual responses (a) × (b) = (c)	Estimated time for response (hour) (d)	Estimated burden (hour/year) (c) × (d) = (e)	Rate [2] ($/hour) (f)	Estimated annual respondent cost burden (e) × (f) = (g)
1	Petition for Participation in the Collaborative Search Pilot (CSP) Program Between the Japan Patent Office (JPO) and the USPTO.	13	1	13	3	39	$435	$16,965
2	Petition for Participation in the Collaborative Search Pilot (CSP) Program Between the Korean Intellectual Property Office (KPO) and the USPTO.	25	1	25	3	75	435	32,625
3	CSP Survey	38	1	38	0.08 ..... (5 minutes)	3	435	1,305
	Totals	76	.....	76	.....	117	.....	$50,895

[2] Ibid.

Estimated Total Annual Respondent Non-hourly Cost Burden: $0. There are no capital start-up, maintenance costs, recordkeeping costs, filing fees, or postage costs associated with this information collection.

IV. Request for Comments

The USPTO is soliciting public comments to:

(a) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected; and

(d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

All comments submitted in response to this notice are a matter of public record. USPTO will include or summarize each comment in the request to OMB to approve this information collection. Before including an address, phone number, email address, or other personally identifiable information (PII) in a comment, be aware that the entire comment—including PII—may be made publicly available at any time. While you may ask in your comment to withhold PII from public view, USPTO cannot guarantee that it will be able to do so.

Kimberly Hardy,

Information Collections Officer, Office of the Chief Adminstrative Officer, United States Patent and Trademark Office.

[FR Doc. 2021–26960 Filed 12–13–21; 8:45 am]

BILLING CODE 3510–16–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Supervisory Highlights, Issue 25, Fall 2021

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Supervisory highlights.

SUMMARY: The Bureau of Consumer Financial Protection (CFPB or Bureau) is issuing its twenty fifth edition of Supervisory Highlights.

DATES: The Bureau released this edition of the Supervisory Highlights on its website on December 8, 2021. The findings included in this report cover examinations completed between January 2021 and June 2021 in the areas of credit card account management, debt collection, deposits, fair lending, mortgage servicing, payday lending, prepaid accounts, and remittance transfers.

FOR FURTHER INFORMATION CONTACT: Jaclyn Sellers, Counsel, at (202) 435–7449. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

1. Introduction

A key function of the CFPB is to supervise the institutions subject to its supervisory authority.[1] The CFPB helps consumers take control over their economic lives through its supervision program by making consumer financial markets more transparent and competitive. To accomplish this, the CFPB examines institutions to assess compliance with Federal consumer financial law, obtain information about compliance management systems (CMS), and detect and assess risks to consumers and markets for consumer financial products and services.[2] The CFPB's supervision program is focused on preventing violations of law and consumer harm before they occur.

The findings included in this report cover examinations completed between January 2021 and June 2021 in the areas of credit card account management, debt collection, deposits, fair lending, mortgage servicing, payday lending, prepaid accounts, and remittance transfers. To maintain the anonymity of the supervised institutions discussed in S*upervisory Highlights,* references to institutions generally are in the plural and the related findings may pertain to one or more institutions. This edition of *Supervisory Highlights* also summarizes recent developments in the Bureau's supervision program and remedial actions.

The CFPB publishes *Supervisory Highlights* to help institutions and the

[1] 12 U.S.C. 5511(c)(4).

[2] 12 U.S.C. 5514(b) and 5515(b).

general public better understand how we examine institutions for compliance with Federal consumer financial laws. *Supervisory Highlights* summarizes existing legal requirements and violations identified in the course of the Bureau's exercise of supervisory and enforcement authority.[3]

We invite readers with questions or comments about *Supervisory Highlights* to contact us at *CFPB_Supervision@cfpb.gov.*

2. Supervisory Observations

2.1 Credit Card Account Management

The Bureau assessed the credit card account management operations of supervised institutions for compliance with applicable Federal consumer financial laws. Examinations of these institutions identified violations of Regulation Z and deceptive acts or practices prohibited by the Consumer Financial Protection Act (CFPA).

2.1.1 Billing Error Resolution Violations

Regulation Z contains billing error resolution provisions with which a creditor must comply following receipt of a billing error notice from a consumer. Examiners found that creditors violated the following provisions of Regulation Z:

- 12 CFR 1026.13(c)(2) by failing to resolve a dispute within two complete billing cycles after receiving a billing error notice regarding the failure to credit a payment that the consumer made;
- 12 CFR 1026.13(e)(1) by failing to reimburse a consumer for a late fee after the creditor determined a missing payment had not been credited to the consumer's account, as the consumer had asserted; and
- 12 CFR 1026.13(f) by failing to conduct reasonable investigations after receiving billing error notices related to a missing payment and unauthorized transactions.

In response to these findings, the creditors are implementing plans to identify and remediate affected consumers. They are also developing and providing training to employees on Regulation Z's billing error resolution requirements and relevant policies and procedures.

2.1.2 Deceptive marketing of credit card bonus offers

Sections 1031 and 1036 of the CFPA prohibit deceptive acts or practices.[4] An act or practice is deceptive when: (1) It misleads or is likely to mislead the consumer; (2) the consumer's interpretation is reasonable under the circumstances; and (3) the misleading act or practice is material.

Examiners found that credit card issuers engaged in deceptive acts or practices by advertising to certain existing customers that they would receive bonus offers if they opened a new credit card account and met certain spending requirements. A consumer could reasonably conclude that an issuer would perform according to the plain terms of its advertisement. The bonus offers were material because they were central characteristics of the credit card advertisements. In fact, the issuers misled consumers because they failed to provide the advertised bonuses to customers who satisfied these requirements. And the issuers failed to ensure that their employees followed procedures for making correct system entries when enrolling existing consumers.

Examiners also found that the credit card issuers engaged in deceptive acts or practices by advertising to other consumers that they would receive certain bonuses if they opened new credit card accounts in response to the advertisements and met certain spending requirements. The issuers, however, failed to disclose or adequately disclose that consumers must apply online for the new credit card to receive the bonus. In fact, if the consumers otherwise satisfied the requirements but applied through a different channel, the credit card issuers failed to provide the bonus, as promised. The advertising's overall net impression misled or was likely to mislead consumers who could reasonably conclude that they needed only to satisfy the specified spending requirements, as the application channel was not disclosed or was inadequately disclosed. The representation regarding the bonus offer terms was material because it related to a core feature of the product. Thus, the credit card issuers' failure to adequately disclose the online limitation in light of the representation constituted a deceptive act or practice.

In response to these findings, the issuers are modifying applicable advertisements and undertaking remedial and corrective actions.

2.2 Debt Collection

The Bureau has supervisory authority to examine certain institutions that engage in consumer debt collection activities, including nonbanks that are larger participants in the consumer debt collection market and nonbanks that are service providers to certain covered persons.[5] Recent examinations of larger participant debt collectors identified risks of violations of the Fair Debt Collection Practices Act (FDCPA).

2.2.1 Risk of a False Representation or Deceptive Means To Collect or Attempt To Collect a Debt

Section 807(10) of the FDCPA prohibits the use of any false representation or deceptive means to collect or attempt to collect any debt.[6] Examiners found that debt collectors discussed restarting a payment plan with consumers and represented that improvements to the consumers' creditworthiness would occur upon final payment under the plan and deletion of the tradeline. However, numerous factors influence an individual consumer's creditworthiness, including potential tradelines previously furnished by prior owners of the same debt. As a result, such payment may not improve the credit score of the consumers to whom the representation is made. Examiners found that such representations could lead the least sophisticated consumer to conclude that deleting derogatory information would result in improved creditworthiness, thereby creating the risk of a false representation or deceptive means to collect or attempt to collect a debt in violation of section 807(10). In response to these findings, the collectors revised their FDCPA policies and procedures. They also enhanced training and monitoring systems to prevent, identify, and address risks to consumers that may arise from deceptive statements by collection agents and third-party service providers about the effects of payment or non-payment on consumer credit, credit reporting, or credit scoring.

2.3 Deposits

The CFPB examines institutions for compliance with Regulation E,[7] which implements the Electronic Fund Transfer Act (EFTA).[8] The CFPB also examines for compliance with other relevant statutes and regulations, including Regulation DD,[9] which implements the Truth in Savings Act,[10] and the CFPA's prohibition on unfair, deceptive, and abusive acts or practices (UDAAPs).[11] Examiners found that institutions violated Regulation E.

[3] If a supervisory matter is referred to the Office of Enforcement, Enforcement may cite additional violations based on these facts or uncover additional information that could impact the conclusion as to what violations may exist.

[4] 12 U.S.C. 5531 and 5536(a)(1)(B).

[5] 12 U.S.C. 5514(e).

[6] 15 U.S.C. 1692e(10).

[7] 12 CFR 1005 *et seq.*

[8] 15 U.S.C. 1693 *et seq.*

[9] 12 CFR 1030 *et seq.*

[10] 12 U.S.C. 4301 *et seq.*

[11] 12 U.S.C. 5531, 5536.

2.3.1 Regulation E Error Resolution for Misdirected Payments

Supervision conducted examinations of institutions in connection with the provision of person-to-person digital payment network services. Regulation E defines the term ''error'' to include, among other things, ''[a]n incorrect electronic fund transfer to or from the consumer's account.'' [12] Regulation E requires institutions to investigate promptly and determine whether an error occurred.[13] Examiners found that, in certain cases, due to inaccurate or outdated information in the digital payment network directory, consumers' electronic fund transfers (EFTs) were misdirected to unintended recipients, even though the consumer provided the correct identifying token information for the recipient, *i.e.,* the recipient's current and accurate phone number or email address. These misdirected transfers are referred to as ''token errors.'' Token errors are incorrect EFTs because the funds are not transferred to the correct account.[14] Examiners found that institutions violated Regulation E by failing to determine that token errors constituted ''incorrect'' EFTs under Regulation E.

Additionally, institutions violated Regulation E by failing to conduct reasonable error investigations when the institutions received error notices from consumers that alleged that the consumers had sent funds via a person-to-person payment network, but that the intended recipients had not received the funds.[15] The institutions reviewed only whether they processed the transactions in accordance with the sender's payment instructions and not whether the transfer went to an unintended recipient due to a token error. The institutions did not consider relevant information in their own records, or information that they reasonably could obtain during their investigation, to consider whether the consumer's error notice constituted an error under Regulation E.

These violations caused monetary harm to consumers. As a result of these findings, the institutions are revising their policies and procedures, are conducting lookbacks, and will provide remediation to injured consumers.

2.4 Fair Lending

The Bureau's fair lending supervision program assesses compliance with the Equal Credit Opportunity Act (ECOA) [16] and its implementing regulation, Regulation B,[17] as well as the Home Mortgage Disclosure Act (HMDA) [18] and its implementing regulation, Regulation C,[19] at institutions subject to the Bureau's supervisory authority. Examiners found lenders violated ECOA and Regulation B.

2.4.1 Pricing Discrimination

ECOA prohibits a creditor from discriminating against any applicant, with respect to any aspect of a credit transaction, on the basis of race or sex.[20]

Examiners observed that mortgage lenders violated ECOA and Regulation B by discriminating against African American and female borrowers in the granting of pricing exceptions based upon competitive offers from other institutions. The failure of the lenders' mortgage loan officers to follow the lenders' policies and procedures with respect to pricing exceptions for competitive offers, the lenders' lack of oversight and control over their mortgage loan officers' use of such exceptions, and managements' failure to take appropriate corrective action surrounding self-identified risks all contributed to the observed pricing disparities.

The examination team observed that lenders maintained policies and procedures that permitted mortgage loan officers to provide pricing exceptions for consumers, including pricing exceptions for competitive offers, but did not specifically address the circumstances when a loan officer could provide pricing exceptions in response to competitive offers. Rather, the lenders relied on managers to promulgate a verbal policy that a consumer must initiate or request a competitor price match exception.

The examination team identified lenders with statistically significant disparities for the incidence of pricing exceptions for African American and female applications compared to similarly situated non-Hispanic white and male borrowers. Examiners did not identify evidence that explained the disparities observed in the statistical analysis. Instead, examiners identified instances where lenders provided pricing exceptions for a competitive offer to non-Hispanic white and male borrowers with no evidence of customer initiation. Furthermore, examiners noted that lenders failed to retain documentation to support pricing exceptions. Also, lenders' fair lending monitoring reports and business line personnel raised fair lending concerns regarding the lack of documentation to support pricing exception decisions. Despite such concerns, lenders did not improve the processes or document customer requests to match competitor pricing during the review period. In response to these findings, lenders plan to undertake remedial and corrective actions regarding these violations, which are under review by the Bureau.

2.4.2 Religious Discrimination

ECOA prohibits discrimination on the basis of religion [21] and its implementing Regulation B states: ''A creditor shall not inquire about the race, color, religion, national origin, or sex of an applicant or any person in connection with a credit transaction.'' [22] Regulation B also states that ''a creditor shall not take a prohibited basis [including religion] into account in any system of evaluating creditworthiness of applicants.'' [23]

Examiners found that lenders violated ECOA and Regulation B by improperly inquiring about small business applicants' religion and by considering an applicant's religion in the credit decision. For religious institutions applying for small business loans, lenders utilized a questionnaire which contained explicit inquiries about the applicant's religion. Examiners determined that lenders also denied credit to an applicant identified as a religious institution because the applicant did not respond to the questionnaire.

In response to these findings, lenders updated the questionnaire to ensure compliance with ECOA and Regulation B. In addition, lenders also identified affected applicants and provided an offer for each identified applicant to reapply for a small business loan.

[12] 12 CFR 1005.11(a)(1)(iii).

[13] 12 CFR 1005.11(c).

[14] 12 CFR 1005.11(a)(1)(ii).

[15] 12 CFR 1005.11(c)(1).

[16] 15 U.S.C. 1691–1691*f.*

[17] 12 CFR pt. 1002.

[18] 12 U.S.C. 2801–2810.

[19] 12 CFR pt. 1003.

[20] 15 U.S.C. 1691(a)(1). ECOA also prohibits a creditor from discriminating against any applicant, with respect to any aspect of a credit transaction, on the basis of color, religion, national origin, marital status, or age (provided the applicant has the capacity to contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act, 15 U.S.C. 1691(a).

[21] 15 U.S.C. 1691(a)(1). ECOA also prohibits a creditor from discriminating against any applicant, with respect to any aspect of a credit transaction, on the basis of race, color, sex, national origin, marital status, or age (provided the applicant has the capacity to contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act, 15 U.S.C. 1601, *et seq.* 15 U.S.C. 1691(a).

[22] 12 CFR pt. 1002.5(b).

[23] 12 CFR pt. 1002.6(b)(1).

2.5 Mortgage Servicing

The Bureau is prioritizing mortgage servicing supervision work in light of the increase in borrowers needing loss mitigation assistance this year.[24] Recent mortgage servicing examinations have identified various Regulation Z and Regulation X violations, as well as unfair and deceptive acts or practices prohibited by the CFPA. Under sections 1031 and 1036 of the CFPA, an act or practice is unfair when: (1) It causes or is likely to cause substantial injury; (2) the injury is not reasonably avoidable by consumers; and (3) the substantial injury is not outweighed by countervailing benefits to consumers or to competition.

Examiners found that mortgage servicers engaged in the following unfair acts or practices:

- Charging delinquency-related fees to borrowers in Coronavirus Aid, Relief, and Economic Security (CARES) Act forbearances;
- failing to terminate EFTs after receiving notice that the consumer's bank account had been closed and an insufficient fund (NSF) fee had been assessed; and
- assessing fees for services that exceeded the actual cost of the services performed.

Additionally, examiners found that mortgage servicers engaged in deceptive acts or practices by incorrectly disclosing transaction and payment information in borrowers' online mortgage loan accounts.

Examiners also found violations of Regulation X requirements to evaluate borrowers' complete loss mitigation applications within 30 days of receipt, Regulation Z requirements relating to overpayments to borrowers' escrow accounts, and Homeowners Protection Act (HPA) requirements to automatically terminate private mortgage insurance (PMI) pursuant to the applicable deadline.

2.5.1 Charging Delinquency-Related Fees to Borrowers in CARES Act Forbearances

Examiners found that mortgage servicers engaged in unfair acts or practices by charging late fees and default-related fees to borrowers in CARES Act forbearances. Section 4022(b)(3) of the CARES Act prohibits a mortgage servicer from imposing ''fees, penalties, or interest beyond the amounts scheduled or calculated as if the borrower made all contractual payments on time and in full under the terms of the mortgage contract'' in connection with a CARES Act forbearance.[25] Examiners found that, due to human and system errors, mortgage servicers charged late fees and default-related fees to borrowers in violation of this provision of the CARES Act. Borrowers experienced substantial injury in the form of illegal fees, which were significant, especially for consumers experiencing economic hardship from the COVID–19 pandemic. The mortgage servicers failed to refund some of the fees until almost a year later. Borrowers likely suffered further harm if they could not pay other expenses because of the fees. The injury was also widespread and impacted a large number of borrowers. Borrowers could not reasonably avoid the injury because they could not anticipate that the mortgage servicers would assess unlawful fees and borrowers had no reasonable means to avoid imposition of the fees. Charging the illegal fees did not provide any countervailing benefit to consumers or competition. In response to these findings, the mortgage servicers remediated impacted borrowers and corrected credit reporting to accurately reflect the current balance and amount past due. The mortgage servicers also corrected the underlying system errors.

2.5.2 Failing To Terminate Preauthorized EFTs

Examiners found that mortgage servicers engaged in unfair acts or practices by failing to terminate preauthorized EFTs resulting in repeated NSF fees for failed preauthorized EFTs where the consumer's account was closed. Examiners found that mortgage servicers, despite receiving notice of account closures, continued to initiate EFTs from the closed accounts each month after the initial NSF until the consumer affirmatively canceled the preauthorized EFT arrangement. Borrowers experienced substantial injury because the mortgage servicers' practices resulted in repeated NSF fees. Borrowers could not reasonably avoid the injury because they could not anticipate that the mortgage servicers would continue to attempt the EFTs, particularly where, in some cases, the EFT agreement disclosed that the EFTs would terminate when the relevant account closes. The continued attempts to withdraw payment from closed accounts and fees associated with the subsequent NSF transactions did not provide any countervailing benefit to consumers or competition. In response to these findings, the mortgage servicers remediated impacted borrowers and are changing their practices so that they cancel preauthorized EFTs upon receiving notice of a failed draw attempt tied to a closed account.

2.5.3 Charging Consumers Unauthorized Amounts

Examiners found that mortgage servicers engaged in unfair acts or practices by overcharging consumers for services rendered by a service provider. Examiners found that the mortgage servicers overcharged borrowers between $3 and $15 more than the actual cost of home inspection and Broker Price Opinion fees. The mortgage servicers caused substantial injury to consumers by collecting or attempting to collect fees in excess of the expenses actually incurred. In some instances, borrowers paid money they were not obligated to pay under the loan notes. Consumers could not reasonably avoid the injury because the fees were not disclosed to consumers. The injury resulting from the overcharges was not outweighed by countervailing benefits to consumers or competition. Examiners found that the lack of Board and management oversight, training, and monitoring and audit helped enable this unfair practice. In response to these findings, the mortgage servicers are providing remediation to affected borrowers and have changed their practices.

2.5.4 Misrepresenting Mortgage Loan Transaction and Payment History in Online Accounts

Examiners found that mortgage servicers engaged in deceptive acts or practices by providing inaccurate descriptions of payment and transaction information in borrowers' online mortgage loan accounts. The inaccurate description and information were likely to mislead borrowers because the information was false. It was reasonable for borrowers to rely on their mortgage servicers to report accurate mortgage payments and account transaction histories. The inaccurate descriptions and information were material because they were likely to affect borrowers' conduct regarding their mortgage payments. In response to these findings, the mortgage servicers are implementing corrective actions to ensure the accuracy of account information. The mortgage servicers will also communicate website changes to borrowers and provide access to customer service representatives. Finally, the mortgage servicers are providing remediation to affected borrowers.

[24] *See* CFPB Bulletin 2021–02, ''Supervision and Enforcement Priorities Regarding Housing Insecurity'' (Mar. 31, 2021).

[25] 15 U.S.C. 9056(b)(3).

2.5.5 Failing To Evaluate Complete Loss Mitigation Applications Within 30 Days

Regulation X generally requires servicers to provide consumers with a written notice within 30 days of receiving the complete loss mitigation application that states the servicers' determination of which loss mitigation options, if any, they will offer the consumer.[26] Examiners found that mortgage servicers violated Regulation X because the servicers did not evaluate the borrowers' complete loss mitigation applications and provide a written notice stating the servicers' determination of available loss mitigation options within 30 days of receiving the complete loss mitigation applications. The mortgage servicers indicated that the delays were partly attributable to increased borrower assistance requests, lack of availability of key vendors, and a slowdown in economic activity due to shelter-in-place requirements. Examiners found that the mortgage servicers had not engaged in good faith efforts to comply with the 30-day timeline. In response to these findings, the mortgage servicers implemented additional controls and increased staffing to help ensure timely evaluation of complete loss mitigation applications.

2.5.6 Incorrect Handling of Partial Payments

Regulation Z contains certain requirements for treatment of partial payments. Servicers can take any of the following actions when receiving a partial payment: (i) Credit the partial payment upon receipt, (ii) return the partial payment to the consumer, or (iii) hold the payment in a suspense or unapplied funds account.[27] Regulation Z requires servicers that retain partial payments in a suspense or unapplied funds account to: (i) Disclose to the consumer the total amount of funds being held on periodic statements (if periodic statements are required) and (ii) on accumulation of sufficient funds to cover a periodic payment treat such funds as a periodic payment received.[28]

Examiners found that mortgage servicers violated Regulation Z by applying payments in excess of the amount due to the borrowers' escrow accounts, rather than handling them in accordance with the requirements in 12 CFR 1026.36(c)(1)(ii). In situations where the excess payments were less than $100, the mortgage servicers attempted to refund the excess payment by applying them to the borrowers' escrow accounts. However, these amounts remained in the escrow accounts and the mortgage servicers failed to either return them to the borrowers or alternatively credit the payment to the borrowers' next regularly scheduled monthly payment. In response to these findings, the mortgage servicers have changed their practices to apply excess payments as specified in the underlying loan note in compliance with Regulation Z.

2.5.7 Failing to Automatically Terminate PMI Timely

The HPA requires that servicers automatically terminate PMI when the principal balance of the mortgage loan is first scheduled to reach 78 percent of the original value of the property based on the applicable amortization schedule, as long as the borrower is current.[29] Examiners found that mortgage servicers violated the HPA when they failed to terminate PMI on the date the principal balance of the mortgage was first scheduled to reach 78 percent loan-to-value on a mortgage loan that was current. The root cause of the issue was human error, which resulted in inaccurate data in the mortgage servicers' PMI termination report. In response to these findings, the mortgage servicers have corrected their PMI termination reports and implemented a quality control process to help ensure timely PMI terminations in the future.

2.6. Payday Lending

The Bureau's Supervision program covers institutions that offer or provide payday loans. Examinations of these lenders identified unfair and deceptive acts or practices and violations of Regulation E under EFTA.

2.6.1 Erroneous Debiting and Misrepresentations Surrounding Failure To Honor Loan Extensions

Examiners found that lenders engaged in unfair acts or practices when they debited or attempted to debit from consumer's accounts the remaining balance of their loans on the original due date after the consumers (1) applied for a loan extension, and (2) received a confirmation email stating that only an extension fee would be charged on the due date. The practice caused or was likely to cause substantial injury in the form of unexpected debits of the full loan balance, as well as possible bank fees. The injury was not reasonably avoidable because consumers were not informed in advance that remitting a payment or otherwise having their account balance altered would result in cancellation of a loan extension, and received communications indicating that the loan extension had been granted and that only an extension fee would be charged on the original due date. The substantial injury was not outweighed by countervailing benefits to consumers or to competition.

Based on similar facts, examiners found that lenders engaged in deceptive acts or practices when they misrepresented in loan extension confirmation emails to consumers that consumers would pay only extension fees on the original due dates of their loans. The misrepresentations were likely to mislead a reasonable consumer into believing that the extensions were consummated and only the extension fees would be debited on the due date. The misrepresentations were material because the possibility of debiting the full loan amount was likely to affect a consumer's payment decisions. In response to these findings, lenders plan to undertake remedial and corrective actions regarding these violations, which are under review by the Bureau.

2.6.2 Unauthorized, Duplicate Debits and Failure To Retain Records

Examiners found that lenders engaged in unfair acts or practices when they debited or attempted one or more additional, identical, unauthorized debits from consumers' bank accounts after consumers called to authorize a loan payment by debit card and lenders' systems erroneously indicated the transactions did not process. In other instances, lenders debited or attempted one or more duplicate, unauthorized debits on consumer accounts due to a coding error. Both types of acts or practices caused or were likely to cause substantial injury because they deprived consumers of access to their funds and created significant risks that consumers would be charged bank fees. Consumers could not reasonably avoid the resulting substantial injury because they had no reason to anticipate debits or attempted debits they had not authorized and could not prevent them from occurring. The substantial injury was not outweighed by countervailing benefits to consumers or to competition. The lenders' cost to fix the problem would not outweigh the injury to consumers.

[26] 12 CFR 1024.41(c)(1). This notice is only required if the servicer receives a loss mitigation application more than 37 days before a foreclosure sale.

[27] 12 CFR 1026.36(c)(1)(ii), supp. I, comment 36(c)(1)(ii)–1.

[28] 12 CFR 1026.36(c)(1)(ii).

[29] 12 U.S.C. 4902(b)(1).

Based on the same facts, lenders violated Regulation E,[30] when they failed to retain, for a period of not less than two years, evidence of compliance with the requirements imposed by EFTA.[31] In response to these findings, lenders plan to undertake remedial and corrective actions regarding these violations, which are under review by the Bureau.

2.7 Prepaid Accounts

The Bureau now examines financial institutions who issue prepaid accounts and their service providers, such as program managers, for compliance with Regulation E,[32] which implements EFTA,[33] in connection with prepaid accounts. The Bureau also examines for compliance with other relevant statutes and regulations, including Regulation Z,[34] which implements the Truth in Lending Act,[35] and the CFPA's prohibition on UDAAPs [36] related to prepaid accounts. Examiners identified violations of Regulation E and EFTA.

2.7.1 Prepaid Account Stop Payment and Waiver Violations

Examiners found violations related to stop-payment waivers at financial institutions. EFTA and Regulation E provide that a consumer ''may stop payment of a preauthorized electronic fund transfer from the consumer's account by notifying the financial institution orally or in writing at least three business days before the scheduled date of the transfer.'' [37] Under EFTA, the right to stop such payments cannot be waived in writing or through any other agreement.[38] Examiners found that financial institutions included language in their Terms of Use agreements that waived a consumer's rights under both EFTA and Regulation E. The Terms of Use required consumers to first notify the merchants in order to exercise, through the financial institutions, the consumers' right to stop a pre-authorized payment. This is inconsistent with the consumers' rights set forth under both EFTA and Regulation E and a violation of EFTA.[39]

Relatedly, examiners found that financial institutions enforced the provisions of the Terms of Use and failed to honor stop-payment requests that they received either orally or in writing at least three business days before the scheduled date of the transfer, as required by Regulation E.[40] Their service providers improperly required consumers to first contact the merchant before they would process any stop-payment requests. And, in certain cases, their service providers also subsequently failed to process stop-payment requests due to system limitations, even after a consumer had contacted the merchant. Therefore, examiners concluded that the financial institutions had violated Regulation E.[41]

In response to these findings, the financial institutions are developing and implementing comprehensive CMS for their service providers and ceasing and desisting from violating EFTA and Regulation E.

2.7.2 Prepaid Account Notice of Error Investigation Violations

As noted in the Summer 2020 edition of *Supervisory Highlights,*[42] both EFTA section 908(a) and Regulation E require a financial institution investigating an alleged EFT error, when it determines that no error or a different error occurred, to communicate certain information to consumers. This information includes the investigation determination and an explanation of the determination.[43] To give purpose to both obligations, the meaning of an ''explanation'' is not synonymous with that of a ''determination.'' Financial institutions must go beyond just providing their findings and actually explain those findings. Examiners found that financial institutions failed to explain their determinations within the report of results, in violation of Regulation E.

In response to these findings, financial institutions are developing and implementing comprehensive CMS programs capable of ensuring compliance with all of EFTA and Regulation E's requirements.[44]

Similarly, and as discussed in the deposits section of the Summer 2021 edition of *Supervisory Highlights,*[45] if a financial institution is unable to complete its investigation within 10 business days of receiving a notice of error, Regulation E provides that a financial institution may take up to 45 days from receipt of the error notice to investigate and determine if an error occurred, as long as the financial institution, among other things, provisionally credits the consumer's account in the amount of the alleged error (including interest where applicable) within 10 business days of receiving the error notice.[46]

If the alleged error involves an EFT that was not initiated within a State, resulted from a point-of-sale debit card transaction, or occurred within 30 days after the first deposit to the account was made, the applicable time for provisional credit is 20 business days instead of 10 business days and the financial institution may take up to 90 days, instead of 45 days, to investigate and determine whether an error occurred, provided the institution otherwise complies with the requirements of Regulation E.[47]

Examiners found that financial institutions violated Regulation E by failing to: (i) Promptly begin their investigations upon receipt of an oral error notice, (ii) complete investigations of disputed point-of-sale debit transactions within 90 days of the initial error notice, after issuing provisional credit where required, and (iii) report the investigation results in the determination letter sent to consumers.[48]

In response to these findings, the financial institutions are enhancing their CMS to ensure compliance with the requirements of EFTA and Regulation E applicable to prepaid accounts.[49]

2.8 Remittance Transfers

The Bureau continues to examine institutions under its supervisory authority for compliance with Regulation E, Subpart B (Remittance Rule).[50] The Bureau also reviews for any UDAAPs in connection with remittance transfers. Examiners identified violations of Regulation E.

2.8.1 Failure To Investigate Notice of Errors

Section 1005.33(c)(1) of the Remittance Rule states that ''a remittance transfer provider shall investigate promptly and determine whether an error occurred within 90

[30] 12 CFR 1005.13(b)(1).

[31] 12 CFR 1005.10(b).

[32] 12 CFR pt. 1005.

[33] 15 U.S.C. 1693 *et seq.*

[34] 12 CFR pt. 1026.

[35] 15 U.S.C. 1601 *et seq.*

[36] 12 U.S.C. 5531, 5536.

[37] 12 CFR 1005.10(c)(1); *see also* 15 U.S.C. 1693e(a).

[38] 15 U.S.C. 1693*l.*

[39] 15 U.S.C. 1693*l.*

[40] 12 CFR 1005.10(c).

[41] 12 CFR 1005.10(c).

[42] *Supervisory Highlights,* Issue 22 (Summer 2020), available at: *https://www.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-22_2020-09.pdf.*

[43] 12 U.S.C. 1693f(a) and 1693f(d) and 12 CFR 1005.11(d)(1).

[44] 12 CFR 1005.11(d)(1).

[45] *Supervisory Highlights,* Issue 24 (Summer 2021), available at: *https://www.consumerfinance.gov/data-research/research-reports/supervisory-highlights-issue-24-summer-2021/.*

[46] 12 CFR 1005.11(c)(2).

[47] 12 CFR 1005.11(c)(3). *See also* 12 CFR 1005.2(l).

[48] 12 CFR 1005.11(c)(1)–(3).

[49] 12 CFR 1005.11(c)(1)–(3).

[50] *See* 78 FR 30662 (May 22, 2013), as amended (codified at 12 CFR 1005.30 through 1005.36).

days of receiving a notice of error.'' The investigation required under 12 CFR 1005.33(c)(1) must also include an effort to determine the amount of any required monetary remediation. Among other things, section 1005.33(c)(2)(ii)(B) of the Remittance Rule requires that, in the event of an error for failure to make funds available by the disclosed date of availability, a remittance transfer provider must ''[r]efund[] to the sender any fees imposed and, to the extent not prohibited by law, taxes collected on the remittance transfer.'' A remittance transfer provider must refund any fees charged in connection with the remittance transfer unless the provider investigates and determines that fees were not ''imposed . . . on the remittance transfer.'' [51] A deduction imposed by a foreign recipient bank may constitute a fee that must be refunded to the sender subject to the requirements of the Remittance Rule. Comment 33(c)–10 of the Official Interpretation of Regulation E, however, provides that ''[a] remittance transfer provider may correct an error, without investigation, in the amount or manner alleged by the sender, or otherwise determined, to be in error, but must comply with all other applicable requirements of § 1005.33.''

Examiners found that providers violated section 1005.33(c) of the Remittance Rule. These providers received notices of errors alleging that remitted funds had not been made available to the designated recipient by the disclosed date of availability. The providers then failed to investigate whether a deduction imposed by a foreign recipient bank constituted a fee that the institutions were required to refund to the sender, and subsequently did not refund that fee to the sender. These violations deprived consumers of their rights under the Remittance Rule. In response to these findings, the providers are revising their policies and procedures to comply with the fee-refund provisions of the Remittance Rule and are conducting lookbacks. The providers also will remediate consumers who did not receive fee refunds that were due to them.

3. Supervisory Program Developments

3.1.1 Joint Statement on Supervisory and Enforcement Practices Regarding the Mortgage Servicing Rules in Response to the Continuing COVID–19 Pandemic and CARES Act

On November 10, 2021, the Board of Governors of the Federal Reserve, the CFPB, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the State financial regulators (collectively, agencies) issued a joint statement to communicate to mortgage servicers the agencies' supervisory and enforcement approach as risks associated with the Coronavirus Disease (COVID–19) pandemic continue to change.[52]

On April 3, 2020, the agencies issued the ''Joint Statement on Supervisory and Enforcement Practices Regarding the Mortgage Servicing Rules in Response to the COVID–19 Emergency and the CARES Act'' (April 2020 Joint Statement) to clarify the application of the Regulation X mortgage servicing rules and explain the agencies' approach to supervision and enforcement of the rules in response to the COVID–19 pandemic. In the April 2020 Joint Statement, the agencies announced that until further notice, they would not take supervisory or enforcement action against mortgage servicers for failing to meet certain timing requirements under the mortgage servicing rules as long as the servicers made good faith efforts to provide those required notices or disclosures and took the related actions within a reasonable period of time.

While the COVID–19 pandemic continues to affect consumers and mortgage servicers, the agencies determined that the temporary flexibility described in the April 2020 Joint Statement is no longer necessary because servicers have had sufficient time to adjust their operations by, among other things, taking steps to work with consumers affected by the COVID–19 pandemic and developing more robust business continuity and remote work capabilities. Accordingly, the temporary supervisory and enforcement flexibility announced in the April 2020 Joint Statement no longer applies and the agencies will apply their respective supervisory and enforcement authorities, where appropriate, to address any noncompliance or violations of the Regulation X mortgage servicing rules, as described in the statement.[53]

3.1.2 CFPB Publishes CMS–IT Procedures

On September 21, 2021, the Bureau published examination procedures for Compliance Management System—Information Technology (CMS–IT).[54] The CMS–IT procedures are designed to assess supervised institutions' use of IT and associated IT controls that support consumer financial products and services. Deficiencies in IT and IT systems can pose a risk to consumers and may be the root cause of Federal consumer financial law violations. The procedures utilize the fundamental elements of CMS to review the controls implemented by institutions to manage IT and IT systems that are supporting consumer financial operations. The new procedures are expected to help examiners understand the controls for institutions to manage risks and comply with Federal consumer financial laws.

3.1.3 CFPB Issues Rules To Facilitate a Smooth Transition as Federal Foreclosure Protections Expire

On June 28, 2021, the CFPB finalized amendments to the Federal mortgage servicing regulations to reinforce the ongoing economic recovery as the Federal foreclosure moratoria are phased out.[55] The rules will help protect mortgage borrowers from unwelcome surprises as they exit forbearance. The amendments will support the housing market's smooth and orderly transition to post-pandemic operation. The rules establish temporary special safeguards to help ensure that borrowers have time before foreclosure to explore their options, including loan modifications and selling their homes. The rules cover loans on principal residences, generally exclude small servicers, and took effect on August 31, 2021.

4. Remedial Actions

4.1.1 CFPB Sues LendUp Loans for Violating a 2016 Consent Order and Deceiving Borrowers

On September 8, 2021, the CFPB filed a lawsuit in Federal district court accusing LendUp Loans, LLC (LendUp) of violating a 2016 consent order and deceiving tens of thousands of

[51] 12 CFR 1005.33(c)(2)(ii)(B).

[52] The joint statement on Supervisory and Enforcement Practices Regarding the Mortgage Servicing Rules in Response to the Continuing Covid–19 Pandemic and CARES Act is available at: *https://files.consumerfinance.gov/f/documents/cfpb_mortgage-servicing-rules_joint-statement_2021-11.pdf.*

[53] This includes the *Protections for Borrowers Affected by the COVID–19 Emergency Under the Real Estate Settlement Procedures Act (RESPA), Regulation X* (86 FR 34848), which became effective on August 31, 2021. Though the temporary supervisory and enforcement flexibility announced in the April 2020 Joint Statement no longer applies, guidance in the April 2020 Joint Statement generally explaining the application of the CARES Act and interaction with the Regulation X mortgage servicing rules in effect at that time remain in place.

[54] The CMS–IT procedures are available at: *https://files.consumerfinance.gov/f/documents/cfpb_compliance-management-review-information-technology_examination-procedures.pdf.*

[55] The rule is available at: *https://files.consumerfinance.gov/f/documents/cfpb_covid-mortgage-servicing_final-rule_2021-06.pdf.*

borrowers.[56] In 2016, the Bureau had ordered LendUp to pay $1.83 million in consumer redress and a $1.8 million civil penalty, and to stop misleading consumers with false claims about the cost of loans and the benefits of repeated borrowing. In the complaint, the CFPB alleges that, in violation of the 2016 order, LendUp has continued with much of the same illegal and deceptive marketing. The CFPB also alleges that LendUp illegally failed to provide timely and accurate notices to consumers whose loan applications were denied.

LendUp, headquartered in Oakland, California, offers single-payment and installment loans to consumers and presents itself as an alternative to payday lenders. A central component of LendUp's marketing and brand identity is the ''LendUp Ladder.'' LendUp told consumers that by repaying loans on time and taking free courses offered through its website, consumers would move up the ''LendUp Ladder'' and, in turn, receive lower interest rates on future loans and access to larger loan amounts.

According to the CFPB's complaint, LendUp was not telling consumers the truth. The CFPB's investigation found that 140,000 repeat borrowers were charged the same or higher interest rates for loans after moving up to a higher level on the LendUp Ladder. The investigation also found that many borrowers had their maximum loan size reduced, even after reaching the highest level on the ladder.

The CFPB alleges that LendUp violated the CFPB's 2016 consent order, the CFPA, ECOA, and ECOA's implementing regulation, Regulation B. Specifically, the CFPB alleges that LendUp:

- *Deceived consumers about the benefits of repeat borrowing:* LendUp misrepresented the benefits of repeatedly borrowing from the company by advertising that borrowers who climbed the LendUp Ladder would gain access to larger loans at lower rates when, in fact, that was not true for tens of thousands of consumers.
- *Violated the CFPB's 2016 consent order:* The CFPB's 2016 consent order prohibits LendUp from misrepresenting the benefits of borrowing from the company. LendUp's continued misrepresentations about the LendUp Ladder violate this order.
- *Failed to provide timely and accurate adverse action notices:* Adverse action notices inform consumers why they were denied credit, and timely and accurate notices are vital to maintaining a transparent underwriting process and protect consumers against credit discrimination. LendUp failed to provide adverse-action notices within the 30 days required by ECOA for over 7,400 loan applicants. LendUp also issued over 71,800 adverse-action notices that failed to accurately describe the main reasons why LendUp denied the application as required by ECOA and Regulation B.

The CFPB is seeking an injunction, damages or restitution to consumers, disgorgement of ill-gotten gains, and the imposition of a civil money penalty.

LendUp is also subject to a 2021 stipulated final judgment that resolved the CFPB's claims that LendUp violated the Military Lending Act in connection with its extensions of credit.[57]

Rohit Chopra,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2021–26949 Filed 12–13–21; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open in-person/virtual hybrid meeting.

SUMMARY: This notice announces an in-person/virtual hybrid meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, January 19, 2022; 1:00 p.m.–5:00 p.m.

ADDRESSES: This hybrid meeting will be open to the public virtually via WebEx only. To attend virtually, please contact the Northern New Mexico Citizens Advisory Board (NNMCAB) Executive Director (below) no later than 5:00 p.m. MT on Friday, January 14, 2022.

Board members, Department of Energy (DOE) representatives, agency liaisons, and support staff will participate in-person, strictly following COVID–19 precautionary measures, at: Ohkay Owingeh Conference Center, 68 New Mexico 291, Ohkay Owingeh, New Mexico 87566.

FOR FURTHER INFORMATION CONTACT: Menice B. Santistevan, NNMCAB Executive Director, by Phone: (505) 699–0631 or Email: *menice.santistevan@em.doe.gov.*

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. Consideration of Two Draft EM SSAB Chairs Recommendations
2. Presentation on Status of 2022 Consent Order Appendix B Milestones and Targets
3. Various program updates

Public Participation: The in-person/online virtual hybrid meeting is open to the public virtually via WebEx only. Written statements may be filed with the Board no later than 5:00 p.m. MT on Monday, January 17, 2022, or within seven days after the meeting by sending them to the NNMCAB Executive Director at the aforementioned email address. Written public comments received prior to the meeting will be read into the record. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to submit public comments should follow as directed above.

Minutes: Minutes will be available by emailing or calling Menice Santistevan, NNMCAB Executive Director, at *menice.santistevan@em.doe.gov* or at (505) 699–0631.

Signed in Washington, DC, on December 8, 2021.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2021–26985 Filed 12–13–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: National Nuclear Security Administration, U.S. Department of Energy.

ACTION: Notice of request for comments.

SUMMARY: The Department of Energy (DOE), pursuant to the Paperwork Reduction Act of 1995, intends to extend for three years, an information collection request with the Office of Management and Budget (OMB).

[56] A copy of the complaint is available at: *https://files.consumerfinance.gov/f/documents/cfpb_lendup-loans-llc_complaint_2021-09.pdf.*

[57] The stipulated final judgment can be found at: *https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-settles-with-lendup-loans-llc-for-military-lending-act-violations/.*

DATES: Comments regarding this proposed information collection must be received on or before February 14, 2022. If you anticipate any difficulty in submitting comments within that period, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section as soon as possible.

ADDRESSES: Written comments may be sent by email to *part810@nnsa.doe.gov.* Include ''Paperwork Reduction Act'' in the subject line. Comments can also be sent by fax at (202) 586–6789 or by mail to Katie Strangis, Senior Policy Advisor, Office of Nonproliferation and Arms Control, NA–24, National Nuclear Security Administration, Department of Energy, 1000 Independence Avenue SW, Room 7F–075, Washington, DC 20585. Due to potential delays in DOE's receipt and processing of mail sent through the U.S. Postal Service, DOE encourages responders to submit comments electronically to ensure timely receipt.

FOR FURTHER INFORMATION CONTACT: Additional information on DOE's regulation of assistance to foreign atomic energy activities pursuant to 10 CFR part 810 is available at *www.energy.gov/nnsa/10-cfr-part-810.* For other questions, contact Katie Strangis, Senior Policy Advisor, Office of Nonproliferation and Arms Control, NA–24, National Nuclear Security Administration, Department of Energy, 1000 Independence Avenue SW, Room 7F–075, Washington, DC 20585, telephone (202) 586–8623.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the extended collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

This information collection request contains:

(1) *OMB No.:* A1901–0263;

(2) *Information Collection Request Titled:* Assistance to Foreign Atomic Energy Activities;

(3) *Type of Review:* Extension;

(4) *Purpose:* This collection of information is necessary in order to provide the Secretary of Energy with the appropriate information needed to make informed determinations regarding requests to directly or indirectly engage or participate in the development or production of special nuclear material outside the United States;

(5) *Annual Estimated Number of Respondents:* 106;

(6) *Annual Estimated Number of Total Responses:* 869;

(7) *Annual Estimated Number of Burden Hours:* 1,872;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $193,400.

Statutory Authority: Section 57 b.(2) of the Atomic Energy Act (AEA) of 1954, Section 161p. of the AEA, 10 CFR part 810.

Signing Authority

This document of the Department of Energy was signed on December 9, 2021, by Corey Hinderstein, Deputy Administrator for Defense Nuclear Nonproliferation, National Nuclear Security Administration, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on December 9, 2021.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2021–27005 Filed 12–13–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Request for Information (RFI) Regarding Planning for Establishment of a Program To Support the Availability of High-Assay Low-Enriched Uranium (HALEU) for Civilian Domestic Research, Development, Demonstration, and Commercial Use

AGENCY: Office of Nuclear Energy, Department of Energy.

ACTION: Request for information.

SUMMARY: The U.S Department of Energy (DOE or the Department) is issuing this RFI to invite input on the planning for establishment of a DOE HALEU Availability Program and to gather information to consider in preparing the required report to Congress describing actions proposed to be carried out by DOE under the program. The Energy Act of 2020 authorized the Department to establish and carry out, through the Office of Nuclear Energy, a program to support the availability of high-assay low-enriched uranium (HALEU) for civilian domestic research, development, demonstration, and commercial use.

DATES: Written comments and information are requested on or before January 13, 2022.

ADDRESSES: Interested persons may submit comments by any of the following methods:

1. *Email: rfi-haleu@hq.doe.gov.* Submit electronic comments in Microsoft Word or PDF file format and avoid the use of special characters or any form of encryption. Please include ''Response to RFI'' in the subject line.

2. *Postal Mail:* This option is not available.

3. *Hand Delivery/Courier:* This option is not available during the COVID–19 pandemic.

4. *Online:* Responses will be accepted online at *www.regulations.gov.*

Instructions: All submissions received must include the agency name for this RFI. No facsimiles (faxes) will be accepted. Any information that may be business proprietary and exempt by law from public disclosure should be submitted as described in Section IV of this document.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be sent to: *rfi-haleu@hq.doe.gov* or Dr. Daniel Vega, *daniel.vega@nuclear.energy.gov,* (202) 586–0235, or Michael Reim, *michael.reim@nuclear.energy.gov,* (202) 586–0509.

Please include ''Question on HALEU RFI'' in the subject line.

SUPPLEMENTARY INFORMATION:

I. Background

The Department is working to enable the development and deployment of advanced nuclear reactors as part of meeting the Administration's job creation, energy security and climate goals. DOE's Advanced Reactor Demonstration Program was established to partner with domestic private industry to help accelerate the development and demonstration of advanced nuclear reactors in the United States. Most advanced reactors, including several designs selected for the Advanced Reactor Demonstration Program, are designed to be fueled by HALEU. The Secretary of Energy was authorized in Sec. 2001 of the Energy

Act of 2020 to establish and carry out, through the Office of Nuclear Energy, a program to support the availability of HALEU for civilian domestic research, development, demonstration, and commercial use (HALEU Availability Program). A HALEU Availability Program, leading to the deployment and commercialization of clean energy technologies and infrastructure, could secure a critical domestic supply chain for meeting the Administration's climate, economic, and energy security goals. This program would include substantive engagement by stakeholders, including State, local, and Tribal governments. The program would prioritize addressing long-standing and persistent energy justice issues and be responsive to President Biden's Justice40 Initiative [1] by targeting 40 percent of the benefits of climate and clean infrastructure investments to disadvantaged communities, considering rural communities and communities impacted by the market-based transition to clean energy, and include substantive stakeholder engagement.

Currently, there is very limited domestic capacity to provide HALEU from either DOE or commercial sources. This lack of capacity is a significant obstacle to the development and deployment of advanced reactors for commercial applications.

Specifically, DOE's National Nuclear Security Administration (NNSA) provides highly enriched uranium (HEU), HALEU, and Low Enriched Uranium for its defense and nonproliferation missions. Most of NNSA's HEU is reserved for the Naval Reactors program and for use in the nuclear weapons stockpile, and is therefore unavailable for down-blending to use in advanced reactors used for commercial applications. Other HEU in the inventory is allocated to supply research reactors and medical isotope production facilities worldwide, and to meet critical defense and space requirements. After accounting for these requirements on the inventory, the remaining amount of HEU to be down-blended to HALEU for advanced commercial reactors is very limited. If these supplies were redirected to fuel advanced commercial reactors, they would not be sufficient to meet the projected near-term demands for advanced reactor demonstration and deployment. Furthermore, diverting these resources to support advanced reactor demonstration and deployment would compromise vital nuclear security and nonproliferation missions.

Likewise, on the commercial side, there is no domestic assured source of HALEU to be used to produce fuel for advanced reactors in sufficient quantities to meet anticipated demand. In turn, uncertainty regarding the commercial deployment of advanced reactors and future demand for HALEU undermines private investment to develop an assured HALEU supply capability and related infrastructure.

The HALEU Availability Program envisioned in the Energy Act of 2020 is intended to address this problem by temporarily securing a supply of HALEU to support research, development, demonstration, and equitable deployment of advanced reactors for commercial applications. This action, in turn, could spur demand for additional HALEU production and private investment in nuclear fuel supply infrastructure and ultimately remove the government from any role as a supplier of HALEU for industry. The development of a viable domestic commercial supply of HALEU for advanced commercial power reactors could also supply the needs of medical isotope producers and civilian research reactors. The program outlined in Sec. 2001 of the Energy Act of 2020 would sunset on September 30th, 2034, or 90 days after adequate supply is established.

II. Specific Questions on Which Information Is Requested

Public input is requested on information the Department should consider as it plans a program to support HALEU availability for civilian domestic research, development, demonstration, and commercial use. The information gathered in response to this RFI will be considered by DOE in planning for the HALEU Availability Program and other relevant planning and reporting purposes as needed. In providing information in response to this RFI, please include the data, analysis, and/or other justification for the responses, where applicable. Please note that any information that may be business proprietary and exempt by law from public disclosure should be submitted as described in Section IV of this document.

To facilitate public input, this RFI includes a set of specific questions on which the Department would appreciate input. These questions are listed below.

Establishment of a HALEU Consortium & Market Development

(1) Sec. 2001 of the Energy Act of 2020 directs the establishment and periodic updating of a HALEU Consortium to partner with DOE to support the availability of HALEU for civilian domestic demonstration and commercial use. Among other things, the Act envisions that the HALEU Consortium could: provide information to DOE for purposes of biennial surveys on the quantity of HALEU needed for commercial use for each of the subsequent five years; purchase HALEU made available by the Secretary for commercial use by members of the consortium; and carry out demonstration projects using HALEU provided by the Secretary under the program.

What types of organizations or other entities should be included in the HALEU Consortium? If your organization or entity might be interested in becoming a member of a HALEU Consortium, please describe the contribution your organization or entity could provide to the consortium. The description should include examples of the type of activity or activities for which your organization or entity is interested in partnering with the Department. Please also provide a point of contact for your organization or entity, including name, affiliation, email, and phone number.

(2) Please identify any issues, including energy justice concerns, that may affect the implementation of the HALEU Availability Program under Sec. 2001 of the Energy Act of 2020, in an equitable manner that would further the development and deployment of advanced reactors and the establishment of a domestic commercial source of HALEU.

(3) What are the most significant barriers to the establishment of a reliable market-driven, commercial supply of HALEU for advanced reactor research, demonstration, and commercial deployment? Please describe these barriers in detail, identify potential actions to address these barriers, and include the timeframes in which the issues should be addressed.

(4) If the Department were to address the objectives of *Sec. 2001 of the Energy Act of 2020* related to the creation of a fuel bank to supply HALEU for civilian domestic research, development, demonstration, and commercial use:

- What is the quantity (in metric tons/assay) of HALEU necessary for domestic commercial use for each of the next five years (2022–2026)?
- If a ''stockpile'' of HALEU were established to build confidence in the supply of HALEU supporting early orders for the deployment of advanced reactors in the commercial market, how

[1] *https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/.*

large (in metric tons/assay) a stockpile would be needed?

• What siting and energy justice issues should the Department take into account as it considers the development of a program and how might the Department address those issues?

(5) Please identify any additional specific actions that would provide confidence in the short-term supply of HALEU and thereby to ensure the development of a commercial market for advanced reactor orders.

• What actions might be most useful for the U.S. Government to carry out?

• What actions might be most appropriate for the private sector to carry out?

(6) What level of market demand for HALEU over what timeframe is needed to stimulate investment in the infrastructure required to support a HALEU supply chain?

(7) On what basis should HALEU be priced or valued? Please consider the options for the pricing of HALEU based on enrichment, weight, and/or separative work units and provide the pros and cons for each option or combination of options. Please discuss how pricing options would provide DOE with reasonable compensation and commercial entities with sufficient incentive to deploy domestic capacity to supply HALEU. What is your long-term estimated ''price point'' for the range of assays/enrichment (2030 and beyond)? Please consider and note the form of HALEU (*e.g.,* metal, oxide, UF_6, etc.) in your response.

HALEU Supply Chain Development

(8) Advanced reactors under development (including awardees under the Advanced Reactor Demonstration Program) would utilize HALEU in various chemical and physical fuel forms, including oxides, metals, and potentially salts. Additionally, centrifuge enrichment requires uranium in hexafluoride form. What additional fuel cycle infrastructure, or additions or modifications to existing infrastructure, would enable the deployment of commercial HALEU production and assure the availability of different forms of HALEU in sufficient quantities for use in advanced reactors?

(9) How do you envision a HALEU supply chain as being responsive to the President's Justice40 Initiative—a plan to deliver 40 percent of the overall benefits of climate investments to disadvantaged communities and inform equitable research, development, and deployment within DOE? Please provide specific actions and the type of benefits (*e.g.,* employment, educational opportunities, etc.) that could be most useful to the targeted communities in response to the Justice40 Initiative.

(10) What are some approaches or contracting vehicles that could be used by the Department to help enable the necessary commercial deployment of a domestic HALEU supply chain, including but not limited to mining, conversion, enrichment, deconversion, transportation, and fuel fabrication? For each, please discuss potential federal versus private sector actions; in addition, discuss leveraging robust partnerships for co-development of sub-elements of the supply chain.

Possible approaches that might be considered include:

• Production contracts (of what volume and length);

• Take-or-pay contracts (U.S. Government agrees to take specified volume of goods and/or services for a specified time period);

• Partnerships and/or cost-sharing of infrastructure development, including with allies and partners; and

• Payment-for-production milestones.

(11) What specific technological, regulatory, and/or legal gaps or challenges currently exist for transporting HALEU in various chemical forms (*e.g.,* oxide, hexafluoride, metal) throughout the HALEU fuel supply chain? How do these challenges change depending upon the enrichment level? What actions could be taken, when, and by whom, to address the identified gaps or challenges?

(12) Questions specific for transportation packaging companies:

(i) What actions, either federal or non-federal, might help incentivize the development and delivery of a new or modified 30-inch cylinder? Please discuss incentive amounts and incentive areas (design, licensing, certification, overpack re-certification, etc.) as appropriate that would be most helpful to accelerate the delivery date.

(ii) If your company were to receive an order for a 30-inch transportation package that is certified by NRC to contain enriched uranium hexafluoride up to 19.75 wt. percent Uranium-235, what do you expect would be the earliest delivery date possible? What do you anticipate would be its maximum loading?

(13) Co-location of facilities for the front end of the fuel cycle (such as enrichment, and conversion/deconversion, and fabrication) may be a practicable solution to address some HALEU transportation issues. Is co-location considered otherwise beneficial? Are there other solutions that should be considered?

(14) What factors affect the ability of U.S. uranium producers to provide uranium for advanced reactor fuel? Please indicate the importance of such factors and how they may be addressed.

Regulatory Issues

(15) What are the technical barriers and/or regulatory requirements (*e.g.,* safety, security, material control and accountability) to licensing front-end fuel cycle facilities (*e.g.,* enrichment, deconversion, and/or fuel fabrication facilities) for the production and availability of HALEU?

• For existing facilities to upgrade to a HALEU capability?

• For new facilities?

(16) What, if any, additional criticality and/or benchmark data is needed to meet U.S. Nuclear Regulatory Commission (NRC) safety and regulatory requirements that must be met in order to establish a supply chain capable of making HALEU available for the development and deployment of advanced reactors? Please consider and address both front-end fuel cycle facilities and transportation packages (including for metal, gas, and pertinent chemical forms).

(17) What, if any, additional challenges or considerations may be associated with a HALEU lifecycle (including disposition), beyond those of a traditional light water reactor fuel cycle, and how can they be can be identified early and addressed?

(18) What other legal, funding, and other issues should be addressed to best enable the development of a HALEU availability program and promote private sector deployment of domestic HALEU production capacity?

Financial Barriers

(19) Please describe the financial challenges associated with developing a sustainable commercial fuel supply chain for HALEU. Specifically, what are the challenges related to the acquisition of funds for investment in HALEU production infrastructure? How might these challenges be mitigated?

Human Resources

(20) What are the human resource-related considerations related to the buildout of commercial HALEU production?

• Are there specific recruitment and/or training challenges that must be overcome?

• What types of skillsets are needed to develop and deploy the domestic commercial production of HALEU? Would this increase the number of union jobs?

• Please describe the nature of any anticipated shortage in subject matter expertise and its potential impact.

Other

(21) Are there additional considerations or recommendations, including the timing of various actions, that should be considered with respect to key challenges to HALEU availability for civilian domestic research, development, demonstration, and commercial use in the United States?

III. Submission of Comments

DOE invites all interested parties to submit, in writing by January 13, 2022, comments and information on matters addressed in this RFI. Any information that may be business proprietary and exempt by law from public disclosure should be submitted as described in Section IV of this document.

IV. Business Proprietary Information

Pursuant to 10 CFR 1004.11, any person submitting information they believe to be business proprietary and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked ''Business Proprietary'' including all the information believed to be proprietary, and one copy of the document marked ''Non-Proprietary'' deleting all of the information believed to be business proprietary. DOE will make its own determination about the business proprietary status of the information and treat it according to its determination. Factors of interest to DOE when evaluating requests to treat submitted information as business proprietary include: (1) A description of the items; (2) whether and why such items are customarily treated as business proprietary within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its business proprietary nature; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its business proprietary character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

Signing Authority

This document of the Department of Energy was signed on December 8, 2021, by Andrew Griffith, Deputy Assistant Secretary for Nuclear Fuel Cycle and Supply Chain, Office of Nuclear Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on December 9, 2021.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2021–26984 Filed 12–13–21; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9336–01–OW]

Notice of Request for Nominations of Candidates to the Environmental Financial Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for nominations.

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites nominations of qualified candidates to be considered for appointment to the Environmental Financial Advisory Board (the Board or EFAB). The Board provides advice to EPA on ways to lower the costs of, and increase investments in, environmental and public health protection. The Bipartisan Infrastructure Law (signed November 2021) provides funding to EPA that includes more than $50 billion for clean water projects, more than $5 billion for Superfund and brownfields cleanup work, $5 billion for decarbonizing our nation's school buses, and $100 million for pollution prevention. Board members will provide recommendations on ways EPA can implement these funds to advance environmental justice, tackle the climate crisis, and protect public health. Appointments will be made by the Administrator and will be announced in June 2022.

DATES: Nominations should be submitted in time to arrive no later than January 18, 2022.

ADDRESSES: Nominations should be sent via email to *efab@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants further information concerning the nomination process may contact Sandra Williams at 202–564–4999 or *efab@epa.gov.* General information concerning the EFAB can be found on EPA's website at *https://www.epa.gov/waterfinancecenter/efab.*

SUPPLEMENTARY INFORMATION:

Background: The EFAB is an EPA advisory committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., app. 2, to provide advice and recommendations to EPA on innovative approaches to financing environmental programs, projects, and activities. Administrative support for the EFAB is provided by the Water Infrastructure and Resiliency Finance Center within EPA's Office of Water. The Board was established in 1989 to provide advice and recommendations to EPA on the following issues: Reducing the cost of financing environmental facilities and discouraging polluting behavior; creating incentives to increase private investment in the provision of environmental services and removing or reducing constraints on private involvement imposed by current regulations; developing new and innovative environmental financing approaches and supporting and encouraging the use of cost-effective existing approaches; identifying approaches specifically targeted to small/disadvantaged community financing; increasing the capacity of state and local governments to carry out their respective environmental programs under current Federal tax laws; analyzing how new technologies can be brought to market expeditiously; and, increasing the total investment in environmental protection of public and private environmental resources to help ease the environmental financing challenge facing our nation.

The Board meets either in-person or virtually two times each calendar year (two days per meeting) at different locations within the continental United States. In addition to the bi-annual meetings, additional virtual meetings may be held during the year to ensure timely completion of the Board's work. Board members typically contribute approximately 3 to 8 hours per month to the activities of the Board. This includes participation on one or more of the Board's active workgroups. Members serve on the Board without compensation; however, Board members may receive travel and per diem allowances where appropriate and in accordance with Federal travel regulations.

Members are appointed to represent the perspective of specific organizations, associations, or groups of persons (Representative members), or to provide their individual expertise (Special Government Employee, or SGE, members). Candidates invited to serve as SGE members will be asked to submit the ''Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency'' (EPA Form 3110–48). This confidential form allows EPA to determine whether there is a statutory conflict between that person's public responsibilities as an SGE member and private interests and activities, or the appearance of a loss of impartiality as defined by Federal regulation. The form may be viewed at *https://www.epa.gov/waterfinancecenter/efab,* but this form should not be submitted as part of a nomination.

Experience and Expertise Sought for the EFAB: The Board seeks to maintain diverse representation across all workforce sectors (state/local/tribal government, business (industry and finance), and nonprofit organizations) and geographic regions of the United States. Nominees should demonstrate experience in environmental finance and/or reducing the cost of financing environmental protection in various environmental media (*e.g.,* air, energy, land, and water). Experience and expertise sought include, but are not limited to, the following areas: Air quality; brownfields; climate change; commercial banking; energy efficiency; environmental and financial resiliency; environmental justice; environmental, social, and corporate governance; green banking; infrastructure financing; insurance markets; local utility management and finance; public-public and public-private partnerships; regulators; resource conservation; sustainable community partnerships; and drinking water and wastewater utility financial management.

EPA values and welcomes opportunities to increase diversity, equity, inclusion, and accessibility on its federal advisory committees. In an effort to obtain nominations from diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups. Nominee qualifications will be assessed under the mandates of the FACA, which requires that committees be balanced in terms of the points of view represented and the functions to be performed; for the Board, this balance includes diversity across a broad range of constituencies, sectors, and groups. In addition to this notice, other sources may be utilized in the solicitation of nominees.

How to Submit Nominations: Any interested person or organization may nominate qualified person(s) to be considered for appointment to the EFAB. Individuals may self-nominate. Nominations should be submitted via email to *efab@epa.gov.* Nominations should include the following information: Contact information for the person making the nomination; contact information for the nominee (if different), including full name and title, business mailing address, telephone, and email address; the specific areas of experience or expertise of the nominee; the nominee's curriculum vitae or resume; and a biographical sketch of the nominee indicating current position and recent service on other federal advisory committees or national professional organizations. A supporting letter of endorsement is encouraged, but not required.

Evaluation Criteria: The following criteria will be used to evaluate nominees: Residence in the continental United States; professional knowledge of, and experience with, environmental financing activities; senior-level experience that fills a gap in Board representation or brings a new and relevant dimension to its deliberations; demonstrated ability to work in a consensus-building process with a wide range of representatives from diverse constituencies; and willingness to serve a two or three-year term as an active and contributing member, with possible re-appointment to a second term. Under EPA policy, members of EPA advisory committees may not be in receipt of (or reap substantial direct benefit from) an EPA grant; this policy does not apply to state, local, or tribal government agency recipients of EPA grants.

Dated: December 8, 2021.

Andrew D. Sawyers,

Director, Office of Wastewater Management, Office of Water.

[FR Doc. 2021–26987 Filed 12–13–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OEM–2015–0725; FRL–9342–01–OLEM]

Proposed Information Collection Request; Comment Request; Risk Management Program Requirements and Petitions To Modify the List of Regulated Substances Under Section 112(r) of the Clean Air Act, EPA ICR Number 1656.18, OMB Control Number 2050–0144

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit a request to renew and consolidate existing approved Information Collection Requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described in **SUPPLEMENTARY INFORMATION**. This is a proposed renewal of the Risk Management Program Requirements and Petitions to Modify the List of Regulated Substances under section 112(r) of the Clean Air Act ICR (EPA ICR Number 1656.17, OMB Control Number 2050–0144), which is approved through November 30, 2022. This ICR renewal also consolidates, within OMB Control Number 2050–0144, the information collection burden and costs associated with the Accidental Release Prevention Requirements: Risk Management Programs under the Clean Air Act (Final Reconsideration Rule) ICR (EPA ICR Number 2537.06, OMB Control Number 2050–0216). Once this renewal ICR is approved, OMB Control Number 2050–0216 will be discontinued. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before February 14, 2022.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OEM–2015–0725, to EPA online using *www.regulations.gov* (our preferred method) or by mail to EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, or to OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public

docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Wendy Hoffman, Office of Emergency Management, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–8794; email address: *hoffman.wendy@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *http://www.regulations.gov.* Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room is closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. For further information about the EPA's public docket, Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.* The telephone number for the Docket Center is (202) 566–1744.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. EPA will consider the comments received and amend the ICR, as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: This information collection is authorized by the following Clean Air Act (CAA) sections: For on-site documentation of Risk Management Plans (RMPs), 112(r)(7)(B)(i) and (ii); for submitting an RMP, 112(r)(7)(B)(iii); and, for on-site documentation and submittal of RMPs, 114(a)(1). State and local authorities use the information in RMPs to modify and enhance their community response plans. The agencies implementing the Risk Management Program rule use RMPs to evaluate compliance with the Chemical Accident Prevention Provisions in 40 CFR part 68 and to identify sources for inspection that may pose significant risks to the community. Citizens may use the information to assess and address chemical hazards in their communities and to respond appropriately in the event of a release of a regulated substance.

This request for comments relates to the renewal of EPA ICR Number 1656.17, OMB Control Number 2050–0144, which covers the Risk Management Program and is being consolidated with EPA ICR Number 2537.06, OMB Control Number 2050–0216, which represents the Risk Management Program information collection requirements impacted by the December 19, 2019 (84 FR 69834) Final Risk Management Program Reconsideration Rule (Reconsideration Rule). The Reconsideration Rule modified changes made to the Risk Management Program by the January 13, 2017 (82 FR 4594) Final Risk Management Program Amendments Rule (Amendments Rule). The consolidation covers information collection requirements from the Amendments Rule that were retained or retained with modification in the Reconsideration Rule. Once this renewal ICR is approved, OMB Control Number 2050–0216 will be discontinued.

The burden estimates, numbers and types of respondents, wage rates and unit and total costs for this ICR renewal will be revised and updated, if needed, based on comments received during the 60-day comment period.

Form Numbers: None.

Respondents/affected entities: Stationary sources that manufacture, react, mix, store, or use substances in processes that require equipment designed, constructed, installed, operated, or maintained in specific ways to prevent accidental releases and ensure safe operations.

Respondent's obligation to respond: Mandatory under CAA section 112(r)(7)(B)(iii).

Estimated number of respondents: 12,556.

Frequency of response: Sources are required to register and submit an RMP once every five years unless there are significant changes in the information provided.

Total estimated burden: 773,876 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $51,650,227 (per year), which includes $25,850 annualized operation & maintenance costs. No capital costs are associated with this ICR.

Changes in Estimates: The estimates presented above reflect EPA's best available estimates based on the currently approved ICRs. The estimated number of respondents comes from the number of stationary sources and implementing agencies subject to the information collection requirements in OMB Control Number 2050–0216. The total burden and cost estimates were calculated by adding the burden or cost from OMB Control Number 2050–0144 to the burden or cost from the Amendments rule provisions that were retained or retained with modification in OMB Control Number 2050–0216. For example, for the total estimated burden, 66,793 hours (per year) from OMB Control Number 2050–0144 were added to 707,083 hours (per year) that were retained or retained with modification from the Amendments rule in OMB Control Number 2050–0216. The number of respondents is likely to decrease because more facilities deregistered than became new sources since the previous renewal. Similarly, the annual respondent burden hours are likely to decrease due to anticipated changes in the respondent universe. Any change in burden or cost resulting from the 60-day public comment period will be described in this section when the updated ICR Supporting Statement is completed.

Donna Salyer,

Director, Office of Emergency Management.

[FR Doc. 2021–26965 Filed 12–13–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OLEM–2021–0826; FRL–9339–01–OLEM]

The Hazardous Waste Electronic Manifest System Advisory Board: Request for Nominations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites the public to nominate experts to be considered for a three-year appointment to the Hazardous Waste Electronic Manifest System Advisory Board (the ''Board''). Pursuant to the Hazardous Waste Electronic Manifest Establishment Act (the ''e-Manifest Act'' or the ''Act''), EPA has established the Board to provide practical and independent advice, consultation, and recommendations to the EPA Administrator on the activities, functions, policies, and regulations associated with the Hazardous Waste Electronic Manifest (e-Manifest) System. In accordance, with the e-Manifest Act, the EPA Administrator or designee will serve as Chair of the Board. This notice solicits nominations for possible consideration of candidates to potentially serve in the following positions on the Board: an expert in information technology (IT); an industry representative member with experience in using or representing users of the manifest system; and a state representative member responsible for processing manifests.

DATES: Nominations of candidates considered for appointment must be received on or before January 13, 2022.

ADDRESSES: Submit your nominations identified with ''BOARD NOMINATION'' in the subject line to Tamue Gibson, the Acting Designated Federal Officer (DFO) of the e-Manifest Advisory Board at *gibson.tamue@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Tamue Gibson, Acting Designated Federal Officer (DFO), Phone: 202–564–7642; or by email: *gibson.tamue@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On June 30, 2018, EPA established a national system for tracking hazardous waste shipments electronically. This system, known as ''e-Manifest,'' supports the modernization of the nation's cradle-to-grave hazardous waste tracking process while saving valuable time, resources, and dollars for industry and states.

EPA established the e-Manifest system according to the Hazardous Waste Electronic Manifest Establishment Act, enacted into law on October 5, 2012. The ''e-Manifest Act'' authorizes the EPA to implement a national electronic manifest system and requires that the costs of developing and operating the new e-Manifest system be recovered from user fees charged to those who use hazardous waste manifests to track off-site shipments of their wastes.

This system enables users of the uniform hazardous waste manifest forms (EPA Form 8700–22 and Continuation Sheet 8700–22A) to have the option to more efficiently track their hazardous waste shipments electronically, in lieu of the paper manifest, from the point of generation, during transportation, and to the point of receipt by an off-site facility that is permitted to treat, store, recycle, or dispose of the hazardous waste. Electronic manifests obtained from the national system augment or replace the paper forms that have historically been used for this purpose, and that result in substantial paperwork costs and other inefficiencies. Congress intended that EPA develops a system that, among other things, meets the needs of the user community and decreases the administrative burden associated with the current paper-based manifest system on the user community. By enabling the transition from a paper-intensive process to an electronic system, EPA estimates e-Manifest will ultimately save state and industry users more than $50 million annually, once electronic manifests are widely adopted. The system also serves as a national reporting hub and database for all manifests and shipment data. To ensure that these goals are met, the Act directs EPA to establish a Board to assess the effectiveness of the electronic manifest system and make recommendations to the Administrator for improving the system.

In addition, the e-Manifest Act directs EPA to develop a system that attracts sufficient user participation and service revenues to ensure the viability of the system. As a result, the Act provides EPA broad discretion to establish reasonable user fees, as the Administrator determines are necessary, to pay costs incurred in developing, operating, maintaining, and upgrading the system, including any costs incurred in collecting and processing data from any paper manifest submitted to the system.

e-Manifest aligns with the Agency's E-Enterprise business strategy. E-Enterprise for the Environment is a transformative 21st century strategy—jointly governed by states and EPA—for modernizing government agencies' delivery of environmental protection. Under this strategy, the Agency will streamline its business processes and systems to reduce reporting burden on states and regulated facilities and improve the effectiveness and efficiency of regulatory programs for EPA, states, and tribes.

EPA has established the Board in accordance with the provisions of the e-Manifest Act and the Federal Advisory Committee Act (FACA), 5 U.S.C. app.2. The Board is in the public interest and supports EPA in performing its duties and responsibilities. Pursuant to the e-Manifest Act the Board is comprised of nine members, of which one member is the Administrator (or a designee), who will serve as Chair of the Board, and eight members are individuals appointed by the EPA Administrator:

- At least two of whom have expertise in information technology (IT);
- At least three of whom have experience in using, or represent users of, the manifest system to track the transportation of hazardous waste under federal and state manifest programs; and
- At least three state representatives responsible for processing those manifests.

The Board will meet publicly at least annually to provide recommendations on matters related to the operational activities, functions, policies, and/or regulations of the EPA under the e-Manifest Act. Pursuant to the e-Manifest Act, the Board will assist the Agency in evaluating the effectiveness of the e-Manifest IT system and associated user fees; identifying key issues associated with the system, including the need (and timing) for user fee adjustments; recommending system enhancements; and providing independent advice on matters and policies related to the e-Manifest program. The e-Manifest Board provides recommendations on matters related to the operational activities, functions, policies, and regulations of the EPA under the e-Manifest Act, including proposing actions to encourage the use of the electronic (paperless) system, and actions related to the E-Enterprise strategy that intersect with e-Manifest. These intersections may include issues such as business-to-business communications, performance standards for mobile devices, and Cross Media Electronic Reporting Rule (CROMERR) compliant e-signatures.

II. Nominations

Any interested person and/or organization may nominate qualified individuals for membership. EPA values and welcomes diversity. To obtain nominations of diverse candidates, the agency encourages nominations of all genders and all racial and ethnic groups. All nominations will be considered; however, applicants need to be aware of the representation from specific sectors required by the e-Manifest Act.

Nominees who represent states and industry should have a comprehensive knowledge of hazardous waste

generation, transportation, treatment, storage, and disposal under RCRA Subtitle C at the federal, state, and local levels. Nominees who represent states should have comprehensive knowledge of state programs that use manifest data. Nominees who represent industry should be familiar with e-Manifest and have strong knowledge of existing industry systems/devices/approaches and business operations to provide valuable input on e-Manifest integration into current industry data systems.

IT nominees should have core competencies and experience in large-scale systems and application development, integration, and implementation. This may include competency and experience with: Managing complex systems used by multiple user communities; ensuring data availability, integrity, and quality; user help desk and support; as well as expertise relevant to the complexities of an electronic manifest system. Examples of this expertise may include, but are not limited to: Expertise with web-based and mobile technologies, particularly those that support large scale operations for geographically diverse users; expertise in IT security, including perspective on federal IT security requirements; expertise in electronic signature and user management approaches; expertise with scalable hosting solutions such as cloud-based hosting; and expertise in user experience. Existing knowledge of, or willingness to gain an understanding of, EPA shared services and enterprise architecture is a plus.

Another plus for any nominee is experience in setting and/or managing fee-based systems in general.

Additional criteria used to evaluate nominees will include:

- Excellent interpersonal, oral, and written communication skills;
- Demonstrated experience developing group recommendations;
- Willingness to commit time to the Board and demonstrated ability to work constructively on committees;
- Absence of financial conflicts of interest;
- Impartiality (including avoiding the appearance of a loss of impartiality); and
- Background and experiences that would help contribute to the diversity of perspectives on the Board, *e.g.,* geographic, economic, social, cultural, educational backgrounds, professional affiliations, and other considerations.

Nominations must include a resume, which provides the nominee's background, experience, and educational qualifications, as well as a brief statement (one page or less) describing the nominee's interest in serving on the Board and addressing the other criteria previously described. Nominees are encouraged to provide any additional information that they feel would be useful for consideration, such as: Availability to participate as a member of the Board; how the nominee's background, skills, and experience would contribute to the diversity of the Board; and any concerns the nominee has regarding membership. Nominees should be identified by name, occupation, position, current business address, email, and telephone number.

Interested candidates may self-nominate. The agency will acknowledge receipt of nominations. Persons selected for membership will receive compensation for travel and a nominal daily compensation (if appropriate) while attending meetings in person. Additionally, candidates selected to serve as Information Technology (IT) ''Expert'' Members will be designated as Special Government Employees (SGEs) or consultants. Candidates designated as SGEs will be required to fill out the ''Confidential Financial Disclosure Form for Environmental Protection Agency Special Government Employees'' (EPA Form 3310–48). This confidential form provides information to the EPA ethics officials to determine whether there is a conflict between the SGE's public duties and their private interests, including an appearance of a loss of impartiality as defined by federal laws and regulations.

One example of a potential conflict of interest may be for IT professional(s) serving in an organization which is awarded any related e-Manifest system development contract(s).

Dated: December 6, 2021.

Carolyn Hoskinson,

Director, Office of Resource Conservation and Recovery, Office of Land and Emergency Management.

[FR Doc. 2021–26966 Filed 12–13–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OA–2021–0683; FRL–9353–01–OA]

White House Environmental Justice Advisory Council; Notification of Virtual Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification for a public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), the U.S. Environmental Protection Agency (EPA) hereby provides notice that the White House Environmental Justice Advisory Council (WHEJAC) will meet on the dates and times described below. EPA is announcing a two (2) day meeting on January 26 and 27, 2022. The meeting is open to the public. Members of the public are encouraged to provide comments relevant to the specific issues being considered by the WHEJAC. For additional information about registering to attend the meetings or to provide public comment, please see ''REGISTRATION'' under **SUPPLEMENTARY INFORMATION**. Pre-registration is required.

DATES: The WHEJAC will hold a virtual public meeting on Wednesday, January 26, 2022, and Thursday, January 27, 2022, from approximately 3:00 p.m.–7:30 p.m., Eastern Time each day. A public comment period relevant to the specific issues will be considered by the WHEJAC on Wednesday, January 26, 2022. (see **SUPPLEMENTARY INFORMATION**). Members of the public who wish to participate during the public comment period must pre-register by 11:59 p.m., Eastern Time, one (1) week prior to the meeting date.

FOR FURTHER INFORMATION CONTACT: Karen L. Martin, WHEJAC Designated Federal Officer, U.S. EPA; email: *whejac@epa.gov;* telephone: (202) 564–0203. Additional information about the WHEJAC is available at *https://www.epa.gov/environmentaljustice/white-house-environmental-justice-advisory-council.*

SUPPLEMENTARY INFORMATION: The meeting discussion will focus on several topics including, but not limited to the discussion and deliberation of draft recommendations to the Chair of the Council on Environmental Quality and the White House Interagency Council on Environmental Justice from the Justice40 Work Group, Climate and Economic Justice Screening Tool Work Group, and the Scorecard Work Group.

The Charter of the WHEJAC states that the advisory committee will provide independent advice and recommendations to the Chair of the Council on Environmental Quality (CEQ) and to the White House Interagency Council on Environmental Justice (IAC). The WHEJAC will provide advice and recommendations about broad cross-cutting issues, related but not limited to, issues of environmental justice and pollution reduction, energy, climate change mitigation and resiliency, environmental health, and racial inequity. The WHEJAC's efforts will include a broad range of strategic, scientific, technological, regulatory,

community engagement, and economic issues related to environmental justice.

Registration: Individual registration is required for the virtual public meeting. Information on how to register is located at *https://www.epa.gov/environmentaljustice/white-house-environmental-justice-advisory-council.* Registration for the meeting is available through the scheduled end time of the meeting. Registration to speak during the public comment period will close 11:59 p.m., Eastern Time, one (1) week prior to meeting date. When registering, please provide your name, organization, city and state, and email address for follow up. Please also indicate whether you would like to provide public comment during the meeting, and whether you are submitting written comments at the time of registration.

A. Public Comment

Every effort will be made to hear from as many registered public commenters during the time specified on the agenda. Individuals or groups making remarks during the public comment period will be limited to three (3) minutes. Submitting written comments for the record are strongly encouraged. You can submit your written comments in three different ways, (1.) by creating comments in the Docket ID No. EPA–HQ–OA–2021–0683 at *http://www.regulations.gov,* (2.) by using the webform at *https://www.epa.gov/environmentaljustice/white-house-environmental-justice-advisory-council#whejacmeeting,* and (3.) by sending comments via email to *wheja@epa.gov*. Written comments can be submitted up until two (2) weeks after the meeting date.

B. Information About Services for Individuals With Disabilities or Requiring English Language Translation Assistance

For information about access or services for individuals requiring assistance, please contact Karen L. Martin, via email at *whejac@epa.gov* or contact by phone at (202) 564–0203. To request special accommodations for a disability or other assistance, please submit your request at least seven (7) working days prior to the meeting, to give EPA sufficient time to process your request. All requests should be sent to the email listed in the **FOR FURTHER INFORMATION CONTACT** section.

Matthew Tejada,

Director for the Office of Environmental Justice.

[FR Doc. 2021–26986 Filed 12–13–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0179; FR ID 61529]

Information Collections Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before February 14, 2022. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0179.

Title: Section 73.1590, Equipment Performance Measurements.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions.

Number of Respondents and Responses: 13,049 respondents and 13,049 responses.

Estimated Time per Response: 0.5–18 hours.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 12,335 hours.

Total Annual Cost: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 154(i) of the Communications Act of 1934, as amended.

Needs and Uses: The information collection requirements contained in 47 CFR 73.1590(d) require licensees of AM, FM and TV stations to make audio and video equipment performance measurements for each main transmitter. These measurements and a description of the equipment and procedures used in making the measurements must be kept on file at the transmitter or remote control point for two years. In addition, this information must be made available to the FCC upon request.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–26951 Filed 12–13–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0700; OMB 3060–0937; OMB 3060–1209; FR ID 61531]

Information Collections Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility;

the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before February 14, 2022. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control: 3060–0700.

Title: Open Video Systems Provisions, FCC Form 1275.

Form Number: FCC Form 1275.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; and State, Local or Tribal Government.

Number of Respondents and Responses: 280 respondents; 4,672 respondents.

Frequency of Response: Recordkeeping requirement; Third party disclosure requirement; On occasion reporting requirement.

Estimated Time per Response: 0.25 to 20 hours.

Total Annual Burden: 9,855 hours.

Total Annual Costs: None.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 302 of the Communications Act of 1934, as amended.

Needs and Uses: Section 302 of the 1996 Telecommunications Act provides for specific entry options for telephone companies wishing to enter the video programming marketplace, one option being to provide cable service over an ''open video system'' (''OVS''). The rule sections that are covered by this collection relate to OVS.

OMB Control Number: 3060–0937.

Title: Establishment of a Class A Television Service, MM Docket No. 00–10.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Frequency of Response: Recordkeeping requirement; Third party disclosure requirement; On occasion and quarterly reporting requirements.

Number of Respondents and Responses: 385 respondents; 9,850 responses.

Estimated Time per Response: 0.017 hours-52 hours.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i), 307, 308, 309 and 319 of the Communications Act of 1934, as amended.

Total Annual Burden: 172,087 hours.

Total Annual Cost: $1,851,000.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: On November 29, 1999, the Community Broadcasters Protection Act of 1999 (CBPA), Public Law 106–113, 113 Stat. Appendix I at pp. 1501A–594–1501A–598 (1999), codified at 47 U.S.C. 336(f), was enacted. That legislation provided that a low power television (LPTV) licensee should be permitted to convert the secondary status of its station to the new Class A status, provided it can satisfy certain statutorily-established criteria by January 28, 2000. The CBPA directs that Class A licensees be subject to the same license terms and renewal standards as full-power television licenses and that Class A licensees be accorded primary status as television broadcasters as long as they continue to meet the requirements set forth in the statute for a qualifying low power station.

For those stations that met the certification deadline, the CBPA sets out certain certification procedures, prescribes the criteria to maintain a Class A license, and outlines the interference protection Class A stations must provide to analog, digital, LPTV and TV translator stations.

The CBPA directs that Class A stations must comply with the operating requirements for full-service television broadcast stations in order to maintain Class A status. Therefore, beginning on the date of its application for a Class A license and thereafter, a station must be ''in compliance'' with the Commission's operating rules for full-service television stations, contained in 47 CFR part 73.

OMB Control Number: 3060–1209.

Title: Section 73.1216, Licensee-Conducted Contests.

Form Number: None. (Complaints alleging violations of the Contest Rule generally are filed on via the Commission's Consumer Complaint Portal entitled General Complaints, Obscenity or Indecency Complaints, Complaints under the Telephone Consumer Protection Act, Slamming Complaints, Requests for Dispute Assistance and Communications Accessibility Complaints which is approved under OMB control number 3060–0874).

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents and Responses: 21,530 respondents; 21,530 responses.

Estimated Time per Response: 0.1–9 hours.

Frequency of Response: On occasion reporting requirement: Third party disclosure requirement and recordkeeping requirement.

Total Annual Burden: 127,569 hours.

Total Annual Costs: $6,457,500.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 1, 4 and 303 of the Communications Act of 1934, as amended.

Needs and Uses: The Commission adopted the Contest Rule in 1976 to address concerns about the manner in which broadcast stations were conducting contests over the air. The Contest Rule generally requires stations to broadcast material contest terms fully and accurately the first time the audience is told how to participate in a contest, and periodically thereafter. In addition, stations must conduct contests substantially as announced. These information collection requirements are necessary to ensure that broadcast licensees conduct contests with due regard for the public interest.

The Contest Rule permit broadcasters to meet their obligation to disclose contest material terms on an internet website in lieu of making broadcast announcements. Under the amended Contest Rule, broadcasters are required to (i) announce the relevant internet website address on air the first time the audience is told about the contest and periodically thereafter; (ii) disclose the

material contest terms fully and accurately on a publicly accessible internet website, establishing a link or tab to such terms through a link or tab on the announced website's home page, and ensure that any material terms disclosed on such a website conform in all substantive respects to those mentioned over the air; (iii) maintain contest material terms online for at least thirty days after the contest has ended; and (v) announce on air that the material terms of a contest have changed (where that is the case) within 24 hours of the change in terms on a website, and periodically thereafter, and to direct consumers to the website to review the changes.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–26947 Filed 12–13–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0386; OMB 3060–1260; FR ID 61530]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before February 14, 2022. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0386.

Title: Special Temporary Authorization (STA) Requests; Notifications; and Informal Filings; Sections 1.5, 73.1615, 73.1635, 73.1740 and 73.3598; CDBS Informal Forms; Section 74.788; Low Power Television, TV Translator and Class A Television Digital Transition Notifications; Section 73.3700(b)(5), Post Auction Licensing; Section 73.3700(f).

Form No.: None.

Type of Review: Extension of a currently information collection.

Respondents: Business or other for-profit entities; Not for profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 5,509 respondents and 5,509 responses.

Estimated Time per Response: .50–4.0 hours.

Frequency of Response: One-time reporting requirement and on occasion reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 151, 154(i), 157 and 309(j) as amended; Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, § 6402 (codified at 47 U.S.C. 309(j)(8)(G)), 6403 (codified at 47 U.S.C. 1452), 126 Stat. 156 (2012) (Spectrum Act); and Sections 1, 4(i) and (j), 7, 301, 302, 303, 307, 308, 309, 312, 316, 318, 319, 324, 325, 336, and 337 of the Communications Act of 1934, as amended.

Total Annual Burden: 4,325 hours.

Annual Cost Burden: $1,826,510.

Needs and Uses: The data contained in this collection is used by FCC staff to determine whether to grant and/or accept the requested special temporary authority (or other request for FCC action), waiver request, required notification, informal filing, application filings or other non-form submission. FCC staff will review for compliance with legal and technical regulations, including but not limited to ensuring that impermissible interference will not be caused to other stations.

OMB Control Number: 3060–1260.

Title: Broadcast Incubator Program.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; Tribal Governments.

Number of Respondents and Responses: 20 respondents; 123 responses.

Estimated Time per Response: 4 to 16 hours.

Frequency of Response: On occasion reporting requirement; annual reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority that covers this information collection is 47 U.S.C. 151, 152(a), 154(i), 257, 303, 307–310, and 403.

Total Annual Burden: 1,179 hours.

Total Annual Cost: $326,700.

Needs and Uses: On August 3, 2018, the Commission released a Report and Order (Order), Rules and Policies to Promote New Entry and Ownership Diversity in the Broadcasting Services, FCC 18–114, in MB Docket No. 17–289, establishing the requirements that will govern the incubator program that the Commission previously decided to adopt to support the entry of new and diverse voices into the radio broadcast industry. The incubator program is designed for small businesses, struggling station owners, and new entrants that do not have any other means to access the financial assistance and operational support necessary for success in the broadcast industry. The goal is the pairing of these small aspiring, or struggling, broadcast station owners with established broadcasters. These incubation relationships will provide new entrants and struggling small broadcasters access to the financing, mentoring, and industry connections that are necessary for success in the industry, but to date have been unavailable to many. In return for successfully incubating a small aspiring, or struggling, broadcast station owner as part of the Commission's incubator program, an incumbent broadcaster will be eligible to receive a waiver (a reward waiver) of the Commission's Local Radio Ownership Rule following the

successful conclusion of a successful qualifying incubation relationship. The standard term for an incubation relationship is three years.

Commission staff will use the applications, certified statements, and contracts submitted by potential incubating and incubated entities, along with any responses to Commission requests for additional information to determine qualifications for participation in the incubator program.

Commission staff will use the periodic reports to determine whether ongoing incubation relationships are proceeding in a manner consistent with the parties' initial filings and are likely to result in a successful incubation relationship. At the end of a successful incubation relationship, either the incubated entity will own and operate a full-service AM or FM station independently or the incubated station will be on a firmer footing if the station was struggling at the start of the relationship.

In the event the parties seek to extend the duration of their incubation relationship beyond the standard three-year term, the filing of a request for such an extension will enable Commission staff to gauge the types of problems incubating parties are experiencing. Information provided by the parties to the Commission no later than six months before the contract termination date will allow Commission staff to evaluate which option for station ownership the incubating parties plan to pursue at the conclusion of the relationship—*i.e.,* whether the incubated entity plans to keep the incubated station or purchase a new station. Additionally, Commission staff will review documentation submitted to seek a reward waiver to assess whether the market where the reward waiver is sought is comparable to the market where the incubated station was located.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–26952 Filed 12–13–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID 61729]

Open Commission Meeting Tuesday, December 14, 2021

December 7, 2021.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Tuesday, December 14, 2021, which is scheduled to commence at 10:30 a.m.

Due to the current COVID–19 pandemic and related agency telework and headquarters access policies, this meeting will be in a wholly electronic format and will be open to the public on the internet via live feed from the FCC's web page at *www.fcc.gov/live* and on the FCC's YouTube channel.

Item No.	Bureau	Subject
1	PUBLIC SAFETY & HOMELAND SECURITY.	*Title:* Improving Accessibility and Clarity of Emergency Alerts (PS Docket No. 15–94). *Summary:* The Commission will consider a Notice of Proposed Rulemaking and a Notice of Inquiry to improve clarity and accessibility of Emergency Alert System (EAS) visual messages to the public, including for persons who are deaf or hard of hearing, and others who are unable to access the audio message.
2	INTERNATIONAL	*Title:* Facilitating Satellite Broadband Competition (IB Docket No. 21–456). *Summary:* The Commission will consider an Order and Notice of Proposed Rulemaking that would propose revisions to the Commission's rules for spectrum sharing among low-earth orbit satellite systems. The goal of the proposed revisions is to facilitate the deployment of the new generation of non-geostationary satellite orbit, fixed-satellite service (NGSO FSS) systems, including new competitors.
3	WIRELINE COMPETITION	*Title:* Promoting Fair and Open Competitive Bidding in the E-Rate Program (WC Docket No. 21–455). *Summary:* The Commission will consider a Notice of Proposed Rulemaking that proposes to implement a central document repository (*i.e.,* bidding portal) through which service providers would be required to submit their bids to the E-Rate Program Administrator and seeks comment on other changes to the E-Rate competitive bidding rules.

* * * * *

The meeting will be webcast with open captioning at: *www.fcc.gov/live.* Open captioning will be provided as well as a text only version on the FCC website. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530. Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418–0500. Audio/Video coverage of the meeting will be broadcast live with open captioning over the internet from the FCC Live web page at *www.fcc.gov/live.*

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2021–26963 Filed 12–13–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 21–10]

Notice of Filing of Complaint and Assignment; Orange Avenue Express, Inc., Complainant v. Hapag Lloyd AG, Respondent

Served: December 8, 2021.

Notice is given that a complaint has been filed with the Federal Maritime Commission (Commission) by Orange Avenue Express, Inc., hereinafter ''Complainant'', against Hapag Lloyd AG ''Respondent''. Complainant alleges that Respondent Hapag Lloyd AG is a German ocean common carrier.

Complainant alleges that Respondent violated 46 U.S.C. § 41102(c) and 46 U.S.C. 41104(a)(3) and (8) with regard to the movement of refrigerated containers. The full text of the complaint can be found in the Commission's Electronic Reading Room at *https://www2.fmc.gov/readingroom/proceeding/21-10/.*

This proceeding has been assigned to Office of Administrative Law Judges. The initial decision of the presiding office in this proceeding shall be issued by December 8, 2022, and the final decision of the Commission shall be issued by June 22, 2023.

JoAnne O'Bryant,

Program Analyst.

[FR Doc. 2021–26992 Filed 12–13–21; 8:45 am]

BILLING CODE 6730–02–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than December 30, 2021.

A. Federal Reserve Bank of Dallas (Karen Smith, Director, Applications) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *The Odom AmTex Holdings Trust, Orange, Texas;* to become a bank holding company by acquiring Odom AmTex, LLC, Orange, Texas, and thereby indirectly acquiring AmTex Bancshares, Inc., Orange, Texas; Bridge City State Bank, Bridge City, Texas; Peoples State Bank, Shepherd, Texas; and Pavillion Bank, Richardson, Texas.

Board of Governors of the Federal Reserve System, December 9, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–27044 Filed 12–13–21; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2021–0132]

Advisory Committee on Immunization Practices (ACIP); Meeting

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting and request for comment.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Centers for Disease Control and Prevention (CDC) announces the following meeting of the Advisory Committee on Immunization Practices (ACIP). This meeting is open to the public. Time will be available for public comment. The meeting will be webcast live via the World Wide Web.

DATES: The meeting will be held on January 12, 2022, from 10:00 a.m. to 2:30 p.m., EST (times subject to change). The public may submit written comments from December 14, 2021 through January 12, 2022.

ADDRESSES: You may submit comments identified by Docket No. CDC–2021–0132 by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H24–8, Atlanta, Georgia 30329–4027, Attn: ACIP Meeting.

Instructions: All submissions received must include the Agency name and Docket Number. All relevant comments received in conformance with the *https://www.regulations.gov* suitability policy will be posted without change to *https://www.regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *https://www.regulations.gov.*

Written public comments submitted up to 72 hours prior to the ACIP meeting will be provided to ACIP members before the meeting.

FOR FURTHER INFORMATION CONTACT: Stephanie Thomas, ACIP Committee Management Specialist, National Center for Immunization and Respiratory Diseases, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–H24–8, Atlanta, Georgia 30329–4027; Telephone: (404) 639–8367; Email: *ACIP@cdc.gov.*

SUPPLEMENTARY INFORMATION: *Purpose:* The committee is charged with advising the Director, CDC, on the use of immunizing agents. In addition, under 42

U.S.C. 1396s, the committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children program, along with schedules regarding dosing interval, dosage, and contraindications to administration of vaccines. Further, under provisions of the Affordable Care Act, section 2713 of the Public Health Service Act, immunization recommendations of the ACIP that have been approved by the CDC Director and appear on CDC immunization schedules must be covered by applicable health plans.

Matters To Be Considered: The agenda will include discussions on cholera vaccine, tick-borne encephalitis vaccine, influenza vaccines, hepatitis vaccines and respiratory syncytial virus (RSV) vaccine. No recommendation votes are scheduled. No Vaccines for Children (VFC) votes are scheduled. Agenda items are subject to change as priorities dictate. For more information on the meeting agenda visit *https://www.cdc.gov/vaccines/acip/meetings/meetings-info.html.*

Public Participation

Interested persons or organizations are invited to participate by submitting written views, recommendations, and data. Please note that comments received, including attachments and other supporting materials, are part of the public record and are subject to public disclosure. Comments will be posted on *https://www.regulations.gov.* Therefore, do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. If you include your name,

contact information, or other information that identifies you in the body of your comments, that information will be on public display. CDC will review all submissions and may choose to redact, or withhold, submissions containing private or proprietary information such as Social Security numbers, medical information, inappropriate language, or duplicate/near duplicate examples of a mass-mail campaign. CDC will carefully consider all comments submitted into the docket.

Written Public Comment: The docket will be opened to receive written comments on December 14, 2021. Written comments must be received on or before January 12, 2022.

Oral Public Comment: This meeting will include time for members of the public to make an oral comment. Oral public comment will occur before any scheduled votes including all votes relevant to the ACIP's Affordable Care Act and Vaccines for Children Program roles. Priority will be given to individuals who submit a request to make an oral public comment before the meeting according to the procedures below.

Procedure for Oral Public Comment: All persons interested in making an oral public comment at the January 12, 2022 ACIP meeting must submit a request at *http://www.cdc.gov/vaccines/acip/meetings/* no later than 11:59 p.m., EST, January 7, 2022, according to the instructions provided.

If the number of persons requesting to speak is greater than can be reasonably accommodated during the scheduled time, CDC will conduct a lottery to determine the speakers for the scheduled public comment session. CDC staff will notify individuals regarding their request to speak by email by January 10, 2022. To accommodate the significant interest in participation in the oral public comment session of ACIP meetings, each speaker will be limited to 3 minutes, and each speaker may only speak once per meeting.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2021–26956 Filed 12–13–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, Deputy Director for Infectious Diseases (BSC, DDID)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting for the Board of Scientific Counselors, Deputy Director for Infectious Diseases (BSC, DDID). This virtual meeting is open to the public via Zoom, limited only by the space available, which is 500 seats. Pre-registration is required by accessing the link below in the addresses section.

DATES: The meeting will be held on January 19–20, 2022, from 1:00 p.m. to 5:30 p.m., EST.

ADDRESSES: Zoom virtual meeting. Pre-registration is required by accessing the link at *https://cdc.zoomgov.com/webinar/register/WN_vXuOtDbNQIycPMScOPKvKQ.* Instructions to access the meeting will be provided following registration.

FOR FURTHER INFORMATION CONTACT: Hilary Eiring, MPH, Designated Federal Officer, CDC, 1600 Clifton Road NE, Mailstop H24–12, Atlanta, Georgia 30329–4027, Telephone: (770) 488–3901; Email: *HEiring@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: The Board provides advice and guidance to the Secretary, Department of Health and Human Services; the Director, CDC; the Director and the Deputy Director for Infectious Diseases (DDID), CDC; and the Directors of the National Center for Emerging and Zoonotic Infectious Diseases, the National Center for HIV, Viral Hepatitis, STD, and TB Prevention, and the National Center for Immunization and Respiratory Diseases, CDC, in the following areas: Strategies, goals, and priorities for programs and research within the national centers and monitor the overall strategic direction and focus of DDID and the national centers.

Matters To Be Considered: The agenda will include updates and discussions on recent outbreaks; updates and discussions on CDC's Center for Forecasting and Outbreak Analytics, advanced molecular detection program, Data Modernization Initiative, and CORE Health Equity Science and Intervention Strategy; and other updates and reports, including a brief report back from the Board's Food Safety Modernization Act Surveillance Working Group. Agenda items are subject to change as priorities dictate.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2021–26954 Filed 12–13–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463.

Name of Committee: Safety and Occupational Health Study Section (SOHSS), National Institute for Occupational Safety and Health (NIOSH).

Dates: February 16–17, 2022.

Time: 11:00 a.m.—5:00 p.m., EST.

Place: Teleconference.

Agenda: The meeting will convene to address matters related to the conduct of Study Section business and for the study section to consider safety and occupational health-related grant applications.

For Further Information Contact: Michael Goldcamp, Ph.D., Scientific Review Officer, NIOSH, 1095 Willowdale Road, Morgantown, WV 26506, Telephone: (304) 285–5951; Email: *MGoldcamp@cdc.gov*.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2021–26955 Filed 12–13–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–3758]

Agency Information Collection Activities; Proposed Collection; Comment Request; Expanded Access to Investigational Drugs for Treatment Use

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection associated with expanded access to investigational drugs for treatment use.

DATES: Submit either electronic or written comments on the collection of information by February 14, 2022.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before February 14, 2022. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of February 14, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–N–3758 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Expanded Access Applications.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal

Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Expanded Access to Investigational Drugs for Treatment Use

OMB Control Number 0910–0814—Revision

This information collection supports Agency regulations in 21 CFR part 312, subpart I, Expanded Access to Investigational Drugs for Treatment Use; associated guidance; and Form FDA 3926, Individual Patient Expanded Access Investigational New Drug Application (IND). The regulations govern the use of investigational new drugs, biologics, and approved drugs if availability is limited by a risk evaluation and mitigation strategy, when the primary purpose is to diagnose, monitor, or treat a patient's disease or condition. The goal of the expanded access program is to facilitate the availability of such products to patients with serious diseases or conditions when there is no comparable or satisfactory alternative therapy to diagnose, monitor, or treat the patient's disease or condition. The regulations provide that certain criteria be met, establish content and format requirements for associated reporting, and require that submissions include a cover sheet.

Although we continue to account for burden associated with the submission of expanded access requests for individual patients, we are revising the information collection to also account for burden attendant to other expanded access submissions, including commercial investigational new drug applications (INDs) that involve large groups of patients enrolled for treatment use of the investigational drug (§§ 312.300 through 312.320 (21 CFR 312.300 through 312.320)), currently approved under OMB control number 0910–0014. Because of FDA's long history of facilitating expanded access to investigational drugs for treatment use for patients with serious or immediately life-threatening diseases or conditions, our efforts in this regard are ongoing.

Form FDA 3926 was developed to assist respondents to the information collection. Form FDA 3926 requires the completion of data fields that enable us to uniformly collect the minimum information necessary from licensed physicians who want to request expanded access as prescribed in the applicable regulations. To supplement the form instructions, we issued guidance, most recently updated in October 2017, entitled ''Individual Patient Expanded Access Applications: Form FDA 3926,'' available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/individual-patient-expanded-access-applications-form-fda-3926*. As discussed in the guidance, § 312.310(b) contains additional submission requirements for individual patient expanded access requests. These respondents may continue to use either Form FDA 3926 or Form FDA 1571, Investigational New Drug Application (IND), for all types of IND submissions to satisfy requirements in 21 CFR 312.23(a) (approved under OMB control number 0910–0014). FDA considers a completed Form FDA 3926 signed by the physician and checked in the box in Field 10.a (Request for Authorization to use Form FDA 3926) to be a waiver request in accordance with 21 CFR 312.10.

We are proposing the following revisions to data elements in Form FDA 3926 and will make corresponding revisions to the form instructions:

- Reorder Field 8, ''Physician Name, Address, and Contact Information'' to Field 1, and renumber remaining data fields accordingly;
- Add ''Race and Ethnicity'' as an optional item under the ''Clinical Information/Brief Clinical History'' field;
- Add ''Request for Withdrawal'' under the ''Contents of Submission'' field;
- Add technological enhancements to the electronic version of Form FDA 3926 that utilize user-based selections to prompt required data field entries. Currently, certain fields become grayed out if not required for the submission type selected.

Data elements in §§ 312.315 and 312.320 continue to be reported in Forms FDA 1571 and 1572, Statement of Investigator, (approved under OMB control number 0910–0014).

We estimate the burden of the information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN—CENTER FOR DRUG EVALUATION AND RESEARCH [1]

21 CFR part 312, subpart I; information collection activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
§§ 312.310(b) and 312.305(b); submissions related to expanded access and treatment of an individual patient: Form FDA 3926	1,204	2.4958	3,005	* 0.75	2,254
§ 312.310(d); submissions related to emergency use of an investigational new drug: Form FDA 3926	1,265	2.843	3,596	16	57,536
§§ 312.315(c) and 312.305(b); submissions related to expanded access and treatment of an intermediate-size patient population [2]	88	3.64	320	120	38,400
§ 312.320(b); submissions related to a treatment IND or treatment protocol [2]	20	7	140	300	42,000
Total			7,061		140,190

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Data elements are reported in Forms FDA 1571 and 1572, approved under OMB control number 0910–0014.
* (45 minutes).

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN—CENTER FOR BIOLOGICS EVALUATION AND RESEARCH [1]

21 CFR part 312, subpart I; information collection activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
§§ 312.310(b) and 312.305(b); number of submissions related to expanded access and treatment of an individual patient: Form FDA 3926	118	1.305	154	8	1,232
§ 312.310(d); number of submissions related to emergency use of an investigational new drug: Form FDA 3926	1,591	4.2137	6,704	16	107,264
§§ 312.315(c) and 312.305(b); number of submissions related to expanded access and treatment of an intermediate-size patient population [2]	28	1	28	120	3,360
§ 312.320(b); number of submissions related to a treatment IND or treatment protocol [2]	15	1	15	300	4,500
Total			6,901		116,356

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Data elements are reported in Forms FDA 1571 and 1572, approved under OMB control number 0910–0014.

The information collection reflects an increase in 254,750 burden hours and 11,568 responses annually since the last OMB review and approval of the information collection. We attribute this to an increase in the number of submission.

Dated: December 8, 2021.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2021–26990 Filed 12–13–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Visual Cortex Perception.

Date: January 5, 2022.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089B, MSC 7848, Bethesda, MD 20892, (301) 402–4411, *tianbi@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 9, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–27020 Filed 12–13–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Epidemiology, Prevention and Behavior Research Study Section.

Date: February 28–March 1, 2022.

Time: 9:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Anna Ghambaryan, M.D., Ph.D., Scientific Review Officer, Extramural Project Review Branch, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2120, MSC 6902, Bethesda, MD 20892, 301–443–4032, *anna.ghambaryan@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: December 9, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–27021 Filed 12–13–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Council of Councils.

The meeting will be held as a virtual meeting and will be open to the public as indicated below. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov*).

A portion of the meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4), and 552b(c)(6), Title 5

U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Council of Councils.
Open: January 27, 2022.
Time: 10:00 a.m. to 4:30 p.m.
Agenda: Call to Order and Introductions; Announcements and Updates; NIH Program Updates; Scientific Talks and Other Business of the Committee.
Place: National Institutes of Health, Building 1, One Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Name of Committee: Council of Councils.
Closed: January 28, 2022.
Time: 10:00 a.m. to 11:00 a.m.
Agenda: Review of Grant Applications.
Place: National Institutes of Health, Building 1, One Center Drive, Bethesda, MD 20892 (Virtual Meeting).
Open: January 28, 2022.
Time: 11:15 a.m. to 3:00 p.m.
Agenda: NIH Program Updates; Scientific Talks and Other Business of the Committee.
Place: National Institutes of Health, Building 1, One Center Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Robert W. Eisinger, Ph.D., Executive Secretary, Council of Councils, Senior Scientific Advisor, Division of Program Coordination, Planning, and Strategic Initiatives, Office of the Director, NIH, Building 1, Room 258, One Center Drive, Bethesda, MD 20892, *robert.eisinger@nih.gov,* 301–451–0455.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Council of Council's home page at *http://dpcpsi.nih.gov/council/* where an agenda will be posted before the meeting date. (Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: December 8, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–26988 Filed 12–13–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2021–0630; OMB Control Number 1625–0088]

Collection of Information Under Review by Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0088, Voyage Planning for Tank Barge Transits in the Northeast United States; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before January 13, 2022.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at *https://www.regulations.gov.* Search for docket number [USCG–2021–0630]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.*

Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), ATTN: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, STOP 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2021–0630], and must be received by January 13, 2022.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments to the Coast Guard will be posted without change to *https://www.regulations.gov* and will include any personal information you have

provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the *https://www.reginfo.gov,* comment-submission web page. OIRA posts its decisions on ICRs online at *https://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0088.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (86 FR 48233, August 27, 2021) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Voyage Planning for Tank Barge Transits in the Northeast United States.

OMB Control Number: 1625–0088.

Summary: The information collection requirement for a voyage plan serves as a preventive measure and assists in ensuring the successful execution and completion of a voyage in the First Coast Guard District. This rule (33 CFR 165.100) applies to primary towing vessels engaged in towing tank barges carrying petroleum oil in bulk as cargo.

Need: Section 311 of the Coast Guard Authorization Act of 1998, Public Law 105–383, 112 Stat. 3411 and 46 U.S. Code 70034 (previously 33 U.S.C. 1231) authorize the Coast Guard to promulgate regulations for towing vessel and barge safety for the waters of the Northeast subject to the jurisdiction of the First Coast Guard District. This regulation is contained in 33 CFR 165.100. The information for a voyage plan will provide a mechanism for assisting vessels towing tank barges to identify those specific risks, potential equipment failures, or human errors that may lead to accidents.

Forms: None.

Respondents: Owners and operators of towing vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden of 937 hours a year remains unchanged.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. *et seq.,* chapter 35, as amended.

Dated: November 23, 2021.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2021–26358 Filed 12–13–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2021–0029; OMB No. 1660–0072]

Agency Information Collection Activities: Proposed Collection; Comment Request; Mitigation Grant Programs (including Mitigation (MT) Grants Management (formerly Mitigation (MT) Electronic Grants (eGrants) and FEMA GO) for Flood Mitigation Assistance (FMA), Building Resilient Infrastructure and Communities (BRIC) and Pre-Disaster Mitigation (PDM)

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 60-Day notice of revision and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning FEMA's Hazard Mitigation Assistance (HMA) grant programs specifically, the legacy Pre-Disaster Mitigation Program (PDM), the Building Resilient Infrastructure and Communities (BRIC) program, and the Flood Mitigation Assistance (FMA) program. Under FEMA's HMA grant programs, States, local, Tribal, and Territorial governments (SLTTs) seek assistance to support disaster mitigation and provide opportunities to reduce or eliminate potential losses to SLTTs.

DATES: Written comments must be received on or before February 14, 2022.

ADDRESSES: Submit comments at *www.regulations.gov* under Docket ID FEMA–2021–0029. Follow the instructions for submitting comments.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy and Security Notice that is available via a link on the homepage of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jennie Orenstein, Branch Chief, Policy, Tools and Training Branch, Federal Insurance and Mitigation Administration, FEMA, at *jennie.gallardy@fema.dhs.gov,* and 202–212–4071. You may contact the Records Management Division for copies of the proposed collection of information at *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: This collection of information is necessary to implement grants for the FMA, PDM, and BRIC programs.

The FMA program is authorized pursuant to sec. 1366, 42 U.S.C. 4104c of the National Flood Insurance Act of 1968, as amended. FMA was created as part of the National Flood Insurance Reform Act (NFIRA) of 1994, Public Law 103–325. The Biggert-Waters Flood Insurance Reform Act of 2012 (BW–12), Public Law 112–141, consolidated the Repetitive Flood Claims (RFC) and Severe Repetitive Loss grant (SRL) programs into FMA. Under FMA, cost-share requirements were changed to allow more Federal funds for properties with repetitive flood claims. The FMA program, under 44 CFR part 77 (as of October 1, 2021, previously under 44 CFR part 79), provides funding for measures taken to reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other structures insured under the National Flood Insurance Program (NFIP).

PDM was authorized under sec. 203, 42 U.S.C. 5133, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), Public Law 93–288, as amended by sec. 102 of the Disaster Mitigation Act of 2000, Public Law 106–390. As a result of amendments by the Disaster Recovery Reform Act of 2018 (DRRA), Public Law 115–254, the PDM program was replaced with the BRIC program. Therefore, the PDM is established as a legacy program. The PDM program provided grants for cost-effective mitigation actions prior to a disaster event to reduce overall risks to the population and structures, while also reducing reliance on funding from actual disaster declarations. While the last cycle of the PDM program awards

were made in Fiscal Year (FY) 2019, information collection will continue in subsequent years for the purposes of grant monitoring and closeout.

On August 4, 2020, FEMA established the BRIC program, implementing Section 1234 of the Disaster Recovery Reform Act (DRRA) Public Law 115–254. BRIC replaced the PDM grant program that was previously authorized under Sec. 203 of the Stafford Act, 42 U.S.C. 5133.

The BRIC program is designed to promote a national culture of preparedness and public safety through encouraging investments to protect our communities and infrastructure and through strengthening national mitigation capabilities to foster resilience. The BRIC program seeks to fund effective and innovative projects that will reduce risk, increase resilience, and serve as a catalyst to encourage the whole community to invest in and adopt policies related to mitigation.

The guiding principles of the BRIC program include: (1) Support State and local governments, Tribes, and territories through capability- and capacity-building, to enable them to identify mitigation actions and implement projects that reduce risks posed by natural hazards; (2) encourage and enable innovation while allowing flexibility, consistency, and effectiveness; (3) promote partnerships and enable high-impact investments to reduce risk from natural hazards with a focus on critical services and facilities, public infrastructure, public safety, public health, and communities; (4) provide a significant opportunity to reduce future losses and minimize impacts on the Disaster Relief Fund; (5) promote equity, including by helping members of disadvantaged groups and prioritizing 40 percent of the benefits to disadvantaged communities as referenced in Executive Order (E.O.) 14008 in line with the Administration's Justice40 Initiative; and (6) support the adoption and enforcement of building codes, standards, and policies that will protect the health, safety, and general welfare of the public, taking into account future conditions, prominently including the effects of climate change, and have long-lasting impacts on community risk reduction, including for critical services and facilities and for future disaster costs. The BRIC program distributes funds annually and applies a Federal/Non-Federal cost share.

In accordance with 2 CFR 200.203, FEMA requires that all parties interested in receiving FEMA mitigation grants to submit an application package for grant assistance. Applications and subapplications for BRIC and FMA are submitted via the appropriate system for the respective programs, FEMAGo and eGrants. Information necessary for the ongoing monitoring and closeout of the PDM program for FY 2019 and prior are to be collected via the e-Grants system. The FEMA GO and eGrants system have been developed to meet the intent of the e-Government initiative, authorized by Public Law 106–107. This initiative requires that all Government agencies both streamline grant application processes and provide for the means to electronically create, review and submit a grant application via the internet.

In order to ensure the timely closeout of grants, 2 CFR 200.329 requires that Non-Federal Entities ''must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved.'' Therefore, under 2 CFR part 200 (for BRIC and PDM) and 44 CFR 77.3 (FMA), recipients must complete and submit progress report(s) to the FEMA Regional Administrator on a quarterly basis, certifying how the funds are being used and reporting on the progress of activities funded under the subrecipient awards made to the Recipient by FEMA. The Regional Administrator and Recipient negotiate the date for submission of the first report. Quarterly Progress Reports describe the status of those projects on which a final payment of the Federal share has not been made to the Recipient, and outline any problems or circumstances expected to result in noncompliance with the approved award conditions.

Collection of Information

Title: Mitigation Grant Programs (including Mitigation (MT) Grants Management (formerly Mitigation (MT) Electronic Grants (eGrants) and FEMA GO) for Flood Mitigation Assistance (FMA), Building Resilient Infrastructure and Communities (BRIC) and Pre-Disaster Mitigation (PDM)).

Type of Information Collection: Revision of a currently approved collection.

OMB Number: 1660–0072.

FEMA Forms: FEMA Form Quarterly Progress Report (QPR) (and its instructions) Benefit Cost Determinations, Environmental Reviews, Project Narrative-Sub-Grant Applications, National Review Panel Solicitation (as part of the BRIC application process) and SF forms (as listed in the Supporting Statement).

Abstract: FEMA's FMA and BRIC programs use an automated grant application and management system called FEMA GO. The PDM program uses an automated grant application and management system called MT e-Grants. These grant programs provide funding for the purpose of reducing or eliminating the risks to life and property from hazards. The FEMA GO and eGrants systems include all the application information needed to apply for funding under these grant programs. FEMA and SLTTs use the BRIC Panel Review Form to solicit volunteers from SLTTs and Other Federal Agencies (OFA), to review applications that are routed to the qualitative panel reviews. The volunteers will review, and score applications based on a pre-determined scoring criteria. The PDM, FMA, and BRIC programs will use the same Quarterly Progress Report (QPR) Form.

Affected Public: State, local, Tribal, or Territorial Governments.

Estimated Number of Respondents: 660.

Estimated Number of Responses: 6,596.

Estimated Total Annual Burden Hours: 104,168.

Estimated Total Annual Respondent Cost: $6,175,920.

Estimated Respondents' Operation and Maintenance Costs: $0.

Estimated Respondents' Capital and Start-Up Costs: $0.

Estimated Total Annual Cost to the Federal Government: $7,600,751.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Millicent L. Brown,

Acting Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency,Department of Homeland Security.

[FR Doc. 2021–27030 Filed 12–13–21; 8:45 am]

BILLING CODE 9111–BW–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7038–N–22]

60-Day Notice of Proposed Information Collection: Single Family Mortgage Insurance on Hawaiian Home Lands, OMB Control No.: 2502–0358

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* February 14, 2022.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Hawaiian Home Lands.

OMB Approval Number: 2502–0358.

Type of Request: Extension of a currently approved collection.

Form Number: N/A.

Description of the need for the information and proposed use: FHA offers mortgage insurance for mortgages on single-family dwellings under Title II of the National Housing Act (12 U.S.C. 1701, *et seq.*). The Housing and Urban Rural Recovery Act (HURRA), Public Law 98–181, amended the National Housing Act to add Section 247 (12 U.S.C. 1715z–12) to permit FHA to insure mortgages for properties located on Hawaiian Home Lands.

Section 247 requires that the Department of Hawaiian Homelands (DHHL) of the State of Hawaii (a) be a co-mortgagor; (b) guarantee or reimburse the Secretary for any mortgage insurance claim paid in connection with a property on Hawaiian Home Lands; or (c) offer other security acceptable to the Secretary. There are no changes to this program for this submission.

Under Article XII of the Constitution for the State of Hawaii, the DHHL is responsible for management of Hawaiian Home Lands for the benefit of native Hawaiians. The DHHL determines that the mortgagor meets its eligibility requirement as a native Hawaiian.

Respondents: Business or other for-profit (FHA-approved lenders).

Estimated Number of Respondents: 23.

Estimated Number of Responses: 606.

Frequency of Response: Monthly and on occasion.

Average Hours per Response: 0.58.

Total Estimated Burdens: 99 hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond,; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comments in response to these questions.

C. Authority

Section 2 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Janet M. Golrick,

Acting Chief of Staff for Housing.

[FR Doc. 2021–27000 Filed 12–13–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2021–0135; FXES11130200000–212–FF02ENEH00]

Endangered and Threatened Wildlife and Plants; Draft Recovery Plan for Canelo Hills Ladies-Tresses

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of our draft recovery plan for Canelo Hills ladies-tresses (*Spiranthes delitescens*), an endangered orchid that occurs in desert wetland habitats in southern Arizona. We request review and comment on this draft recovery plan from local, State, and Federal agencies; Tribal governments; nongovernmental organizations; and the public.

DATES: We must receive any comments on or before February 14, 2022. Comments submitted online at *http://www.regulations.gov* (see **ADDRESSES**) must be received by 11:59 p.m. Eastern Time on February 14, 2022.

ADDRESSES:

Obtaining Documents: You may obtain a copy of the draft recovery plan, recovery implementation strategy, and species status assessment for review at *http://www.regulations.gov* in Docket No. FWS–R2–ES–2021–0135.

Submitting Comments: Submit your comments in writing by one of the following methods:

- *Internet: http://www.regulations.gov.* Search for and submit comments on Docket No. FWS–R2–ES–2021–0135.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–R2–ES–2021–0135, U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

For additional information about submitting comments, see Request for Public Comments and Public Availability of Comments under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Jeff Humphrey, Field Supervisor, at 928–556–2157 or by email at *Jeff_Humphrey@fws.gov*. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (USFWS), announce the availability of our draft recovery plan for Canelo Hills ladies-tresses (*Spiranthes delitescens*), which we listed as endangered in 1997 (62 FR 665) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). This orchid species is restricted to four populations in ciénegas (desert wetlands) in Cochise and Santa Cruz Counties in southern Arizona. The draft recovery plan includes specific goals, objectives, and criteria that may help to inform our consideration of whether to reclassify the species as threatened (*i.e.,* ''downlist'') or remove the species from the Federal List of Endangered and Threatened Plants (*i.e.,* ''delist''). We request review of and comment on the draft recovery plan from local, State, and Federal agencies; Tribal governments; nongovernmental organizations; and the public.

Recovery Planning and Implementation

Section 4(f) of the ESA requires the development of recovery plans for listed species, unless such a plan would not promote the conservation of a particular species. Also pursuant to section 4(f) of the ESA, a recovery plan must, to the maximum extent practicable, include:

(1) A description of site-specific management actions as may be necessary to achieve the plan's goals for the conservation and survival of the species;

(2) Objective, measurable criteria that, when met, would support a determination under the ESA's section 4(a)(1) that the species should be delisted; and

(3) Estimates of the time and costs required to carry out those measures needed to achieve the plan's goal and to achieve intermediate steps toward that goal.

In 2016 the USFWS revised its approach to recovery planning, and is now using a process termed recovery planning and implementation (RPI) (see *https://www.fws.gov/endangered/esa-library/pdf/RPI.pdf*). The RPI approach is intended to reduce the time needed to develop and implement recovery plans, increase recovery plan relevance over a longer timeframe, and add flexibility to recovery plans so they can be adjusted to new information or circumstances. Under RPI, a recovery plan addresses the statutorily required elements under section 4(f) of the ESA, including site-specific management actions, objective and measurable recovery criteria, and the estimated time and cost to recovery. The RPI recovery plan is supported by two supplementary documents: A species status assessment (SSA), which describes the best available scientific information related to the biological needs of the species and assessment of threats, and the recovery implementation strategy (RIS), which details the particular near-term activities needed to implement the recovery actions identified in the recovery plan. Under this approach, we can more nimbly incorporate new information on species biology or details of recovery implementation by updating these supplementary documents without concurrent revision of the entire recovery plan, unless changes to statutorily required elements are necessary.

Species Background

On January 6, 1997, we published a final rule (62 FR 665) to list Canelo Hills ladies-tresses as endangered without critical habitat.

The species is known to occur in four populations in southern Arizona: (1) Canelo Hills, with one subpopulation on land owned and managed by The Nature Conservancy and another on U.S. Forest Service land; the most recent observation of the species here included 5 individuals counted in 2002; (2) Turkey Creek, on private lands, where 6 individuals were counted in 2021; (3) San Rafael Valley, on private lands, where 80 plants were counted in 2021; and (4) Babocomari, on private lands, where the species was last observed in 2008.

There are no plants at botanical gardens; however, in 2016 seed from a single population was preserved, and in late 2020 a proposal was funded to begin in vitro propagation and cultivation at the Desert Botanical Garden in Phoenix, Arizona.

The primary ongoing threats to Canelo Hills ladies-tresses include loss or reduction of ciénega (desert wetland) habitat, herbivory or seed predation by vertebrates and invertebrates, pollinator decline, low numbers and limited distribution, and drought and climate change.

Recovery Criteria

The draft recovery criteria are summarized below. For a complete description of the rationale behind the criteria, the recovery strategy, management actions, and estimated time and costs associated with recovery, refer to the draft recovery plan for Canelo Hills ladies-tresses (see **ADDRESSES**, above, for document availability).

The ultimate recovery goal is to delist Canelo Hills ladies-tresses by ensuring the long-term viability of the species in the wild. In the recovery plan, we define the following criteria for delisting (*i.e.,* removal of the species from the List of Endangered and Threatened Plants).

Delisting Criteria

Criterion 1: All four existing populations (Canelo Hills, Turkey Creek, San Rafael Valley, and Babocomari) are viable, and at least three new viable populations are established in strategic sites. To be considered viable, all seven populations must contain a minimum of 100 individuals each, for a total of 25 years over a 35-year period, as indicated by annual monitoring, including during the last two monitoring events. At least three of these populations must contain a minimum of two subpopulations separated by less than 960 meters (the distance a primary pollinator can travel). In addition, two of the seven populations must each contain a minimum of 650 individuals on at least two occasions during the 35-year period mentioned above. Existing or newly established populations may be augmented for 5 out of the first 25 years to achieve these numbers; no augmentation can occur in the last 10 years of the 35-year period. All populations must have documented natural recruitment and not show more than 10 percent loss of seed production to herbivory or predation during two or more monitoring events within the last 10 years of the 35-year period.

Criterion 2: A collection of seed representing the geographical, morphological, and genetic diversity of Canelo Hills ladies-tresses is maintained in multiple Center for Plant Conservation partner botanical or seed storage institutions for conservation purposes.

Criterion 3: A living collection of plants representing the geographical, morphological, and genetic diversity of Canelo Hills ladies-tresses is established within 10 years and maintained in perpetuity in multiple botanical institutions for educational and conservation purposes.

Criterion 4: Ciénegas supporting the four populations of Canelo Hills ladies-tresses (Canelo Hills, Turkey Creek, San Rafael Valley, and Babocomari), plus those ciénegas supporting at least three newly established populations, are protected in perpetuity through a conservation easement, habitat

conservation plan, or other conservation mechanism appropriate to the land status. In addition, conservation easements or other conservation mechanisms appropriate to the land status are held on neighboring lands, such that new developments (*e.g.,* residential, agricultural, and commercial) are minimized and do not impact groundwater availability in the ciénegas supporting Canelo Hills ladies-tresses populations.

Criterion 5: In fulfillment of Criterion 4, above, conservation and management programs and plans address the threats of ciénega habitat loss, direct loss of Canelo Hills ladies-tresses, and pollinator decline to ensure continued existence of the species. The following requirements must be met: (a) Site-specific plans are developed and fully implemented, such that competing native and nonnative vegetation is reduced to a level that ensures Canelo Hills ladies-tresses is not shaded and their vigor is not negatively affected; a more natural fire or other disturbance regime is maintained; natural spring flow supporting cienegas is increased by reducing water loss and increasing water conservation and recharge; moist soil ciénega habitat is increased; predation and herbivory are minimized; and native plant diversity is maintained, thus promoting native pollinators; and (b) data on the conservation and management of Canelo Hills ladies-tresses are collected and shared between land managers and researchers.

Peer Review

In accordance with our policy, ''Notice of Interagency Cooperative Policy for Peer Review in Endangered Species Act Activities,'' which we published on July 1, 1994 (59 FR 34270), and our August 22, 2016, Memorandum, ''Peer Review Process,'' we have sought the expert opinion of at least three appropriate and independent specialists regarding scientific data and interpretations contained in the species biological report and the draft recovery plan. We have ensured that the opinions of peer reviewers were objective and unbiased by following the guidelines set forth in the 2016 Memorandum, which updates and clarifies our policy on peer review. The purpose of such review was to ensure that our decisions are based on scientifically sound data, assumptions, and analysis. We have addressed peer review comments and incorporated changes in the publicly available version of the SSA and this version of the draft recovery plan.

Request for Public Comments

Section 4(f) of the ESA requires us to provide public notice and an opportunity for public review and comment during recovery plan development. Substantive comments may or may not result in changes to the recovery plan. Comments regarding recovery plan implementation will be forwarded as appropriate to Federal or other entities so that they can be taken into account during the course of implementation of recovery actions.

We invite written comments on this draft recovery plan. In particular, we are interested in additional information regarding the current threats to the species, ongoing beneficial management efforts, and the costs associated with implementing the recommended recovery actions. We are specifically seeking comments on the following questions:

- Understanding that the time and cost presented in the draft recovery plan will be fine-tuned as the RIS is implemented, are the estimated time and cost to recovery presented here realistic? Is the estimate reflective of the time and cost of actions that may have already been implemented by Federal, State, county, or other agencies? If not, please provide suggestions or methods for determining a more accurate estimation.
- Do the draft recovery criteria provide clear direction to partners on what is needed to recover Canelo Hills ladies-tresses? How could they be improved for clarity?
- Are the draft recovery criteria both objective and measurable given the information available for Canelo Hills ladies-tresses? Please provide suggestions.
- Understanding that specific, detailed, and area-specific recovery activities have been developed in the RIS, do the draft recovery actions presented in the draft recovery plan generally cover the types of actions necessary to meet the recovery criteria? If not, what general actions are missing? Are any of the draft recovery actions unnecessary for achieving recovery? Have we prioritized the actions appropriately?

The SSA is available as a supporting document for the draft recovery plan, but we are not seeking comments on that document. We will consider all comments we receive by the date specified in **DATES**, above, prior to final approval of the plan.

Public Availability of Comments

All comments we receive, including names and addresses, will become part of the administrative record and will be available to the public. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—will be publicly available. While you may request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We developed our draft recovery plan and publish this notice under the authority of section 4(f) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Amy Lueders,

Regional Director, Southwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2021–27013 Filed 12–13–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R7–SM–2021–N200; FF07J00000 FXRS12610700000 212]

Alaska Subsistence Regional Advisory Council Meetings for 2022

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meetings.

SUMMARY: The Federal Subsistence Board (Board) announces the public meetings of the 10 Alaska Subsistence Regional Advisory Councils (hereafter, Councils) for the winter and fall cycles of 2022. The 10 Councils each meet approximately twice a year to provide advice and recommendations to the Board about subsistence hunting and fishing issues on Federal public lands in Alaska.

DATES: *Winter 2022 Meetings:* The Alaska Subsistence Councils will meet via teleconference between February 8, 2022, and March 24, 2022, as shown in Table 1. For more information about accessing the meetings, visit the Councils' website at *https://www.doi.gov/subsistence/regions.*

TABLE 1—WINTER 2022 MEETINGS OF THE ALASKA SUBSISTENCE COUNCILS

Regional advisory council	Dates
Southeast AK—Region 1	March 22–24.
Southcentral AK—Region 2	February 10–11.
Kodiak/Aleutians—Region 3	February 22–23.
Bristol Bay—Region 4	February 8–9.
Yukon-Kuskokwim Delta—Region 5.	March 1–2.
Western Interior—Region 6	February 16–17.
Seward Peninsula—Region 7	March 3–4.
Northwest Arctic—Region 8	February 14–15.
Eastern Interior—Region 9	March 8–9.
North Slope—Region 10	March 8–9.
Joint Southcentral AK—Region 2 and Eastern Interior—Region 9.	March 16.

Fall 2022 Meetings: The Alaska Subsistence Councils will meet between September 20, 2022, and November 2, 2022, as shown in Table 2. A teleconference will substitute for an in-person meeting if public health or safety restrictions are in effect. To determine whether the meetings will be held via teleconference or in-person, visit the Councils' website at *https://www.doi.gov/subsistence/regions.*

TABLE 2—FALL 2022 MEETINGS OF THE ALASKA SUBSISTENCE COUNCILS

Regional advisory council	Dates	Location (if in-person)
Southeast AK—Region 1	October 25–27	TBD.
Southcentral AK—Region 2	October 13–14	TBD.
Kodiak/Aleutians—Region 3	September 20–21	Cold Bay.
Bristol Bay—Region 4	November 1–2	Dillingham.
Yukon-Kuskokwim Delta—Region 5	October 27–28	TBD.
Western Interior—Region 6	October 19–20	Fairbanks.
Seward Peninsula—Region 7	October 4–5	Nome.
Northwest Arctic—Region 8	October 31–November 1	Kotzebue.
Eastern Interior—Region 9	October 5–6	Fort Yukon.
North Slope—Region 10	October 13–14	TBD.

The meetings are open to the public. For more information see **FOR FURTHER INFORMATION CONTACT**, below.

ADDRESSES: Specific information about meeting locations and the final agendas can be found on the Federal Subsistence Management Program website at: *https://www.doi.gov/subsistence/regions.*

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Sue Detwiler, Assistant Regional Director, Office of Subsistence Management; (907) 786–3888 or *subsistence@fws.gov.* For questions specific to National Forest System lands, contact Gregory Risdahl, Subsistence Program Leader, (907) 302–7354 or *gregory.risdahl@usda.gov.*

Reasonable Accommodations: The Federal Subsistence Board is committed to providing access to these meetings for all participants. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation needs to Katerina Wessels, (907) 786–3885, *katerina_wessels@fws.gov,* or 800–877–8339 (TTY), 7 business days prior to the meeting you would like to attend.

SUPPLEMENTARY INFORMATION: The Federal Subsistence Board announces the 2022 public meeting schedule for the 10 Alaska Subsistence Regional Advisory Councils, in accordance with the Federal Advisory Committee Act (5 U.S.C. Appendix 2). Established in 1993, the Councils are statutory Federal advisory committees that provide a public forum for their regions and recommendations to the Federal Subsistence Board about subsistence hunting, trapping, and fishing issues on Federal public lands in Alaska, as authorized by section 805 of the Alaska National Interest Lands Conservation Act (ANILCA; 16 U.S.C. 3111–3126).

The Councils are a crucial link between federally qualified subsistence users and the Federal Subsistence Board. The Board is a multi-agency body with representation from a Chair and two public members who are appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture, and representatives of the U.S. Fish and Wildlife Service, National Park Service, Bureau of Land Management, Bureau of Indian Affairs, and the USDA–Forest Service.

Each Council meets approximately two times per calendar year, once in the winter and once in the fall, to attend to business and develop proposals and recommendations to the Board.

Meeting Agendas

Winter Meetings

- General Council business: Review and adopt agenda; election of officers; review and approve previous meeting minutes; Council Chair and members reports; public and Tribal comments on non-agenda items.
- Briefing and Council comments on proposed actions to automate Federal subsistence permits.
- Develop proposals and accept public comment to change subsistence take of fish and shellfish regulations.
- Briefing on the Secretarial regulations proposing the inclusion of identified submerged lands in the Tongass National Forest.
- Review and approve Annual Report.
- Agency reports.
- Future meeting dates.

Fall Meetings

- General Council business: Review and adopt agenda; review and approve previous meeting minutes; Council Chair and members reports; public and Tribal comments on non-agenda items.
- Prepare recommendations and accept public comments on proposals to change subsistence take of fish and shellfish regulations.
- Define issues for upcoming Annual Report.
- Develop priority information needs for the Fisheries Resource Monitoring Program.
- Agency reports.
- Future meeting dates.

A notice will be published of specific dates, times, and meeting locations in local and statewide newspapers prior to both series of meetings; in addition, announcements will be made on local radio stations and posted on social media and the Federal Subsistence Management Program website. Locations and dates may change based on weather or local circumstances. A teleconference will substitute for an in-person meeting if public health or safety restrictions are in effect. The final draft agendas, call-in numbers, how to participate and provide public comments, and other related meeting

information will be posted on the Federal Subsistence Management Program website at *https://www.doi.gov/subsistence/regions* and on social media at *https://www.facebook.com/subsistencealaska/.* Transcripts of the meetings are maintained by the Program and will be available for public inspection within 14 days after each meeting at *https://www.doi.gov/subsistence/regions.*

Public Disclosure of Comments: Time will be allowed for any individual or organization wishing to present oral or written comments. If you are not available to submit your comments, you may have a second party present your comments on your behalf. Any written comments received will be presented to the Council members by staff.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

5 U.S.C. Appendix.

Sue Detwiler,

Assistant Regional Director, U.S. Fish and Wildlife Service.

Gregory Risdahl,

Subsistence Program Leader, USDA–Forest Service.

[FR Doc. 2021–26885 Filed 12–13–21; 8:45 am]

BILLING CODE 4333–15–P; 3411–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–ES–2021–N182; FXES11140600000]

Endangered and Threatened Wildlife and Plants; Draft Recovery Plan for Meltwater Lednian Stonefly (Lednia tumana) and Western Glacier Stonefly (Zapada glacier)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability for review and comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of a draft recovery plan for meltwater lednian stonefly and western glacier stonefly, two insect species listed as threatened under the Endangered Species Act. We request review and comment on this draft recovery plan from Federal, State, Tribal, and local agencies and the public.

DATES: We must receive any comments on the draft recovery plan on or before February 14, 2022.

ADDRESSES:

Document availability: Copies of the draft recovery plan are available at *http://www.fws.gov/endangered/species/recovery-plans.html.* Alternatively, you may request a copy by U.S. mail from the Montana Ecological Services Field Office; 585 Shepard Way, Suite 1; Helena, MT 59601; or by telephone at 406–449–5225. Persons who use a telecommunications device for the deaf may call the Federal Relay Service at 800–877–8339.

Submitting comments: If you wish to comment on the draft recovery plan, you may submit your comments in writing by email to Ben Conard, at *ben_conard@fws.gov,* or by U.S. mail to Ben Conard, Acting Project Leader, at the above U.S. mail address.

FOR FURTHER INFORMATION CONTACT: Ben Conard, Acting Project Leader, at the above U.S. mail address or by telephone at 406–449–5225. Persons who use a telecommunications device for the deaf may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft recovery plan for meltwater lednian stonefly (*Lednia tumana;* hereafter, MWS) and western glacier stonefly (*Zapada glacier;* hereafter, WGS), two insects listed as threatened under the Endangered Species Act, as amended (Act; 16 U.S.C. 1531 *et seq.*). The draft recovery plan includes objective, measurable criteria, and site-specific management actions as may be necessary to remove each species from the Federal List of Endangered and Threatened Wildlife. We request review and comment on this draft recovery plan from Federal, State, Tribal, and local agencies and the public.

Species Information

On December 23, 2019, we listed the MWS and WGS as threatened species (November 21, 2019; 84 FR 64210). We did not designate critical habitat for either species. We prepared a biological report for the MWS and WGS (Service 2020), which is an in-depth but not exhaustive review of the species' biology and threats, an evaluation of its biological status, and an assessment of the resources and conditions needed to maintain long-term viability. We summarize the biological report below.

MWS and WGS are small insects in the stonefly family (Nemouridae) that live in alpine streams that flow from melting glaciers and snowfields in Montana, Wyoming, and southwest Alberta, Canada. Both species begin life as eggs, hatch into aquatic nymphs, and later mature into winged adults, surviving briefly on land before reproducing and dying. Both stonefly species prefer cold water temperatures, and therefore are most often found within the first 600 meters (1,968 feet) of a stream, almost immediately downstream from sources of frozen water, such as glaciers and snowfields. The National Park Service manages 94 percent and 63 percent of habitat for MWS and WGS, respectively. The U.S. Forest Service manages 5 percent and 37 percent of habitat for MWS and WGS, respectively. The Confederated Salish and Kootenai Tribes manage less than 1 percent of habitat for MWS.

The MWS currently occupies 113 streams across its known range, and the WGS currently occupies 16 streams across its known range; however, cumulatively, both species occupy relatively small amounts of habitat per stream on average, approximately 600 meters (1,968 feet) per stream. Both species occupy only these small amounts of area per stream because of their low thermal tolerances and the rapid warming of meltwater streams downstream of the meltwater sources, from full sun exposure in alpine environments. Further, both species inhabit the most upstream reaches of their meltwater habitats and cannot disperse further upstream if water temperatures warm beyond their thermal tolerances. This narrow distribution within streams and inability to disperse upstream increases the risk of harm due to stochastic events, such as drought or annual weather fluctuations. Thus, the current overall resiliency of the meltwater habitat and sources for both species is low.

The primary threat to both stonefly species and their habitat is habitat degradation and fragmentation due to climate change. Both stonefly species are intimately tied to cold meltwater aquatic habitat, the sources of which are glaciers or snowfields. Thus, the viability of both species is closely linked to the persistence of these glaciers and snowfields and their ability to continue to provide meltwater habitat in a warming climate. These meltwater sources vary in size, but most are predicted to completely melt by 2030. Warming air temperatures have already

been implicated in faster melting of meltwater sources (glaciers and snowfields) in Glacier National Park and elsewhere. As these meltwater sources begin to disappear, streamflows are expected to become intermittent and water temperatures warmer.

Dewatering of MWS and WGS habitat, even periodically, would result in the extirpation of entire populations because the aquatic nymphs of both species need flowing water to breathe. Melting of meltwater sources is also expected to increase stream temperatures, forcing nymphs to disperse upstream to stay within their temperature tolerances. However, both species already occupy the most upstream portions of their meltwater habitats, so upstream dispersal is not possible. As a result of the fragmentation and degradation of meltwater habitats, available habitat in Glacier National Park for MWS is predicted to decline by 80 percent by 2030 (Muhlfeld *et al.* 2011, p. 342). For WGS, we have observed a declining trend in their distribution over the last 50 years due to warmer air temperatures associated with climate change (Giersch *et al.* 2015, p. 58). Please refer to our biological report for additional discussion and full analyses of the life history, ecology, threats, and biological status for MWS and WGS (Service 2020).

Recovery Planning Process

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Service's endangered species program. Recovery means improving the status of a listed species to the point at which listing is no longer necessary according to the criteria specified under section 4(a)(1) of the Act. The Act requires recovery plans for listed species unless such a plan would not promote the conservation of a particular species. To help guide recovery efforts, we prepare recovery plans to promote the conservation of the species.

The purpose of a recovery plan is to provide a recommended framework for the recovery of a species so that protection of the Act is no longer necessary. Pursuant to section 4(f) of the Act, a recovery plan must, to the maximum extent possible, include:

(1) A description of site-specific management actions as may be necessary to achieve the plan's goal for the conservation and survival of the species;

(2) Objective, measurable criteria which, when met, would support a determination under section 4(a)(1) of the Act that the species should be removed from the List of Endangered and Threatened Species; and

(3) Estimates of time and costs required to carry out those measures needed to achieve the plan's goal and to achieve intermediate steps toward that goal.

We used our new recovery planning and implementation (RPI) process to develop the draft recovery plan for MWS and WGS. The RPI process helps reduce the time needed to develop and implement recovery plans, increases the relevancy of the recovery plan over longer timeframes, and adds flexibility so that the recovery plan can be more easily adjusted to new information and circumstances. Under our RPI process, a recovery plan will include the three statutorily required elements for recovery plans—objective and measurable criteria, site-specific management actions, and estimates of time and cost—along with a concise introduction and our strategy for how we plan to achieve species recovery. The RPI recovery plan is supported by a separate biological report for MWS and WGS (Service 2020). The biological report is an in-depth but not exhaustive review of the species' biology and threats, an evaluation of its biological status, and an assessment of the resources and conditions needed to maintain long-term viability. The biological report provides the scientific background and threats assessment for MWS and WGS, which are key to the development of the recovery plan. A third, separate working document, called the recovery implementation strategy (RIS), steps down the more general descriptions of actions in the recovery plan to detail the specifics needed to implement the recovery plan, which improves the flexibility of the recovery plan. The RIS will be adaptable, with new information on actions incorporated, as needed, without requiring a concurrent revision to the recovery plan, unless changes to the three statutory elements are required.

Draft Recovery Plan

Below, we summarize components from our draft recovery plan. Please reference the draft recovery plan for full details.

The draft recovery plan describes the recovery vision as the conservation and survival of MWS and WGS. Recovery for both species will be signified by resilient, redundant populations and meltwater habitats and sources of meltwater across a representative portion of their respective known ranges. Both species need sources of aquatic meltwater habitats, such as glaciers and snowfields, that have enough mass to provide continual meltwater to endure stochastic environmental change, such as from drought and reduced annual snowfall. Both species also need sufficient distribution and diversity across populations to withstand catastrophes and long-term warming climate trends. This would be achieved by implementing recovery actions, such as surveying for additional populations, researching thermal tolerance limits, identifying potential translocation areas, and exploring controlled propagation techniques.

The draft recovery plan includes recovery criteria for delisting. The delisting criteria are summarized below, with additional detail provided in the draft recovery plan:

(1) Maintaining stable or increasing trends in the area of meltwater sources (glaciers and snowfields), and at least 1,250 hectares (3,087 acres) of meltwater sources across the known ranges of both species; and

(2) Maintaining stable or increasing trends in stream miles, with at least 35 occupied stream miles for both species.

Peer Review

In accordance with our July 1, 1994, peer review policy (59 FR 34270; July 1, 1994); our August 22, 2016, Director's Memo on the Peer Review Process; and the Office of Management and Budget's December 16, 2004, Final Information Quality Bulletin for Peer Review (revised June 2012), we will seek the expert opinion of at least three appropriate independent specialists regarding scientific data and interpretations contained in the species biological report and the draft recovery plan. We will send copies of both documents to the peer reviewers immediately following publication of this notice in the **Federal Register**. We will ensure that the opinions of peer reviewers are objective and unbiased by following the guidelines set forth in the Director's Memo, which updates and clarifies Service policy on peer review (Service 2016). The purpose of such review is to ensure that our decisions are based on scientifically sound data, assumptions, and analysis. Accordingly, our final species biological report and recovery plan may differ from the draft documents. We will post the results of this structured peer review process on our website at *https://www.fws.gov/mountain-prairie/science/peerReview.php*. The biological report is the scientific foundation for the draft recovery plan.

Request for Public Comments

All comments we receive by the date specified (see **DATES**) will be considered prior to approval of the recovery plan. Written comments and materials regarding the recovery plan should be sent via one of the means in the **ADDRESSES** section.

We will consider all information we receive during the public comment period, and particularly look for comments that provide scientific rationale or factual background. The Service and other Federal agencies and partners will take these comments into consideration in the course of implementing an approved final recovery plan. We are specifically seeking comments and suggestions on the following questions:

- Understanding that the time and cost presented in the draft recovery plan will be fine-tuned when localized recovery implementation strategies are developed, do you think that the estimated time and cost to recovery are realistic? Is the estimate reflective of the time and cost of actions that may have already been implemented by Federal, State, county, or other agencies? Please provide suggestions or methods for determining a more accurate estimation.
- Do the draft recovery criteria provide clear direction to partners on what is needed to recover MWS and WGS? How could they be improved for clarity?
- Are the draft recovery criteria both objective and measurable, given the information available for MWS and WGS now and into the future? Please provide suggestions.
- Understanding that specific, detailed, and area-specific recovery actions will be developed in the RIS, do you think that the draft recovery actions presented in the draft recovery plan generally cover the types of actions necessary to meet the recovery criteria? If not, what general actions are missing? Are any of the draft recovery actions unnecessary for achieving recovery? Have we prioritized the actions appropriately?

Public Availability of Comments

We will summarize and respond to the issues raised by the public in an appendix to the approved final recovery plan. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. You may request at the top of your comment that we withhold this information from public review; however, we cannot guarantee that we will be able to do so.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Anna Muñoz,

Acting Deputy Regional Director.

[FR Doc. 2021–27006 Filed 12–13–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–ES–2021–N020; FXES11130600000]

Endangered and Threatened Wildlife and Plants; Draft Recovery Plan for Parachute Beardtongue

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability for review and comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of a draft recovery plan for Parachute beardtongue, a plant species listed as threatened under the Endangered Species Act. We are requesting review and comment from the public on this draft plan.

DATES: We must receive any comments on the draft recovery plan on or before February 14, 2022.

ADDRESSES: *Document availability:* Copies of the draft recovery plan are available at *http://www.fws.gov/endangered/species/recovery-plans.html* and at *https://ecos.fws.gov/ecp/species/7099.* Alternatively, you may request a copy by U.S. mail from the Western Colorado Field Office; 445 W Gunnison Ave., #240; Grand Junction, CO 81501; or by telephone at 970–243–2778. Persons who use a telecommunications device for the deaf may call the Federal Relay Service at 800–877–8339.

Submitting comments: If you wish to comment on the draft recovery plan, you may submit your comments in writing by email to Ann Timberman, at *ann_timberman@fws.gov,* or by U.S. mail to Ann Timberman, Western Slope Field Supervisor, at the above U.S. mail address.

FOR FURTHER INFORMATION CONTACT: Ann Timberman, Western Slope Field Supervisor, at the above U.S. mail address or by telephone at 970–243–2778. Persons who use a telecommunications device for the deaf may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft recovery plan for Parachute beardtongue (*Penstemon debilis*), a plant species listed as threatened under the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*). The draft recovery plan includes objective, measurable criteria, and site-specific management actions as may be necessary to remove the species from the Federal List of Endangered and Threatened Plants. We are requesting review and comment from the public on this draft recovery plan.

Species Information

On August 26, 2011, we listed Parachute beardtongue as a threatened plant species (July 27, 2011; 76 FR 45054). On September 12, 2012, we designated critical habitat for the species (August 13, 2012; 77 FR 48367).

Parachute beardtongue is a rare endemic plant found in the oil shale outcrops of the Roan Plateau escarpment above the Town of Parachute, in Garfield County, Colorado. Parachute beardtongue has adapted to survive on steep, unstable shale slopes. When its leaves are buried by the shifting, unstable talus, Parachute beardtongue elongates its stems downslope until it finds a sufficiently stable surface on which to develop a new tuft of leaves and flowers. All of the currently known Parachute beardtongue occurrences occupy approximately 64 acres (ac) (25.9 hectares (ha)) spread throughout a corridor approximately 2 miles (mi) (3 kilometer (km)) wide and 17 mi (27 km) long in Garfield County, Colorado. There are six known subpopulations of Parachute beardtongue, with an estimated total of 6,954 to 7,404 individual plants rangewide. Threats to the species include the loss and fragmentation of habitats associated with energy development, road maintenance, loss of individuals due to stochastic events, and the inadequacy of regulatory mechanisms.

We conducted a species status assessment (SSA) for Parachute beardtongue and documented our analysis in an SSA report (Service 2020), which is an in-depth, scientific review of the species' biology and threats, an evaluation of its biological status, and an assessment of the resources and conditions needed to maintain populations over time. In our SSA, we identified individual, population, and species requirements, or needs, and the factors affecting the

species' survival. We then evaluated the species' current condition in order to assess the species' current and future viability in terms of its resiliency, redundancy, and representation. The SSA is an in-depth but not exhaustive review of the species' biology and threats, an evaluation of biological status, and an assessment of the resources and conditions needed to maintain long-term viability. The SSA provides the scientific background and threats assessment for our draft recovery plan (Service 2020).

In our SSA analysis, we used measures of subpopulation size, pollinator connectivity, pollinator abundance, average annual precipitation, and average annual temperature to assess the current condition of each subpopulation. As summarized in our SSA report, of the six known subpopulations of Parachute beardtongue, two are no longer considered viable without introducing transplanted individuals, due to the small number of individuals in each of them (Service 2020, pp. 27–34). The Mount Callahan Natural Area subpopulation contains the vast majority of Parachute beardtongue individuals, with 81 to 86 percent of all Parachute beardtongue plants (Service 2020, p. 13). Two subpopulations with few plants ranked low in overall resiliency. All other subpopulations ranked moderate resiliency (Service 2020, p. 27).

Please refer to our species status assessment (SSA) report for additional discussion and full analysis of the life history, ecology, and biological status for Parachute beardtongue (Service 2020).

Recovery Planning Process

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Service's endangered species program. Recovery means improving the status of a listed species to the point at which listing is no longer necessary according to the criteria specified under section 4(a)(1) of the Act. The Act requires recovery plans for listed species unless such a plan would not promote the conservation of a particular species. To help guide recovery efforts, we prepare recovery plans to promote the conservation of the species.

The purpose of a recovery plan is to provide a recommended framework for the recovery of a species so that protection of the Act is no longer necessary. Pursuant to section 4(f) of the Act, a recovery plan must, to the maximum extent possible, include:

(1) A description of site-specific management actions as may be necessary to achieve the plan's goal for the conservation and survival of the species;

(2) Objective, measurable criteria which, when met, would support a determination under section 4(a)(1) of the Act that the species should be removed from the List of Endangered and Threatened Species; and

(3) Estimates of time and costs required to carry out those measures needed to achieve the plan's goal and to achieve intermediate steps toward that goal.

We used our new Recovery Planning and Implementation (RPI) process to develop the draft recovery plan for Parachute beardtongue. The RPI process helps reduce the time needed to develop and implement recovery plans, increases the relevancy of the recovery plan over longer timeframes, and adds flexibility so that the recovery plan can be more easily adjusted to new information and circumstances. Under our RPI process, a recovery plan will include the three statutorily required elements for recovery plans—objective and measurable criteria, site-specific management actions, and estimates of time and cost—along with a concise introduction and our strategy for how we plan to achieve species recovery. The RPI recovery plan is supported by a separate species status assessment for Parachute beardtongue (Service 2020), which provides the scientific background information and threat assessment for the species, which are key to the development of the recovery plan. The SSA report is an in-depth, but not exhaustive, review of the species' biology and threats, an evaluation of its biological status, and an assessment of the resources and conditions needed to maintain long-term viability (Service 2020). A third, separate working document, called the recovery implementation strategy (RIS), steps down the more general descriptions of actions in the recovery plan to detail the specifics needed to implement the recovery plan at the population and individual levels, which improves the flexibility of the recovery plan. The RIS will be adaptable, with new information on actions incorporated, as needed, without requiring a concurrent revision to the recovery plan, unless changes to the three statutory elements are required.

Draft Recovery Plan

Below, we summarize components from our draft recovery plan. Please reference the draft recovery plan for full details (see **ADDRESSES**).

The draft recovery plan describes the recovery vision for Parachute beardtongue as its conservation and survival. Recovery would be signified by at least four resilient subpopulations across the species' range. Recruitment over time in each of the four subpopulations would equal or exceed the loss of individuals, and ecological and genetic diversity would be maintained across these subpopulations (representation). Each of the four subpopulations would contain a minimum of 500 individuals, a minimum viable population (MVP) size necessary for a subpopulation to maintain high resiliency (Service 2020, p. 26). These conditions would provide sufficient resiliency, redundancy, and representation for recovery.

The recovery strategy for Parachute beardtongue would focus on conserving four known subpopulations, primarily by protecting the habitat within these subpopulations by reducing current threats to improve the resiliency of subpopulations. This would be achieved by implementing recovery actions, such as monitoring subpopulations, surveying for additional subpopulations, documenting changes in the species' range, and conducting research to address uncertainties.

The draft recovery plan emphasizes the conservation of larger, more resilient subpopulations of Parachute beardtongue. However, preservation of smaller subpopulations is also important for preserving the genetic diversity of the species. Given these considerations and the input of species experts, this recovery plan requires the conservation of four of the currently known subpopulations of Parachute beardtongue, such that the genetic and ecological representation of the species across its range is preserved. The other two currently known subpopulations of Parachute beardtongue contain no upslope seed sources, and so few individuals that they are not considered viable; therefore, in their current state, these two subpopulations are likely not contributing in a meaningful way to the viability of the species.

The draft recovery plan includes recovery criteria for delisting Parachute beardtongue. The delisting criteria for Parachute beardtongue are summarized below, with additional detail provided in the draft recovery plan:

(1) At least four subpopulations of Parachute beardtongue maintain stable or increasing growth rates (lambda equal or greater than 1), as described in greater detail in the draft recovery plan;

(2) At least four subpopulations, as identified under Criterion 1, meet or exceed abundance estimates of at least 500 Parachute beardtongue individuals over the same 10-year time period applied to Criterion 1, as described in greater detail in the draft recovery plan;

(3) At least four subpopulations, as identified above under Criterion 1, have regulatory mechanisms or other conservation plans in place that reduce or ameliorate threats to the Parachute beardtongue associated with habitat loss and fragmentation, in perpetuity, such that Parachute beardtongue habitats in each of the four identified subpopulations are of sufficient quantity and quality to support the demographic thresholds identified under Criteria 1 and 2, as described in greater detail in the draft recovery plan; and

(4) All four currently known viable subpopulations of Parachute beardtongue (Anvil Points, Logan Wash Mine and Natural Area, Mount Callahan Natural Area, and Mount Callahan Saddle Natural Area) are represented in at least one ex-situ (off-site) seed collection that is managed according to the Center for Plant Conservation guidelines (Guerrant *et al.* 2004). If and when new subpopulations are discovered, the ex-situ seed collection should be updated to represent genetic diversity across the range of the species.

Peer Review

In accordance with our July 1, 1994, peer review policy (59 FR 34270; July 1, 1994); our August 22, 2016, Director's Memo on the Peer Review Process; and the Office of Management and Budget's December 16, 2004, Final Information Quality Bulletin for Peer Review (revised June 2012), we solicited the expert opinions of at least three appropriate and independent specialists regarding scientific data and interpretations contained in our SSA report for Parachute beardtongue (Service 2020). Peer review of the SSA report was completed in June 2019, and we ensured that the opinions of peer reviewers were objective and unbiased by following the guidelines set forth in the Director's Memo, which updates and clarifies Service policy on peer review (U.S. Fish and Wildlife Service 2016). The purpose of such review is to ensure that our decisions are based on scientifically sound data, assumptions, and analysis. Accordingly, our final SSA report and recovery plan may differ from the draft documents. The results of this structured peer review process are posted on our website at *https://www.fws.gov/mountain-prairie/science/peerReview.php.* We also submitted our SSA report to our Federal and State partners for their scientific review. The SSA report is the scientific foundation for this draft recovery plan.

Request for Public Comments

This notice opens the public review and comment period for our draft recovery plan for the Parachute Beardtongue. Section 4(f) of the Act requires that we provide public notice and an opportunity for public review and comment during the development of recovery plans. All comments we receive by the date specified (see **DATES**) will be considered prior to approval of the recovery plan. Written comments and materials regarding the recovery plan should be sent via one of the means in the **ADDRESSES** section. We will consider all information we receive during the public comment period, and particularly look for comments that provide scientific rationale or factual background. The Service and other Federal agencies and partners will take these comments into consideration in the course of implementing an approved final recovery plan. We are specifically seeking comments and suggestions on the following questions:

- Understanding that the time and cost presented in the draft recovery plan will be fine-tuned when localized recovery implementation strategies are developed, do you think that the estimated time and cost to recovery are realistic? Is the estimate reflective of the time and cost of actions that may have already been implemented by Federal, State, county, or other agencies? Please provide suggestions or methods for determining a more accurate estimation.
- Do the draft recovery criteria provide clear direction to partners on what is needed to recover Parachute beardtongue? How could they be improved for clarity?
- Are the draft recovery criteria both objective and measurable given the information available for Parachute beardtongue, now and into the future? Please provide suggestions.
- Understanding that specific, detailed, and area-specific recovery actions will be developed in the RIS, do the draft recovery actions presented in the draft recovery plan generally cover the types of actions necessary to meet the recovery criteria? If not, what general actions are missing? Are any of the draft recovery actions unnecessary for achieving recovery? Have we prioritized the actions appropriately?

Public Availability of Comments

We will summarize and respond to the issues raised by the public in an appendix to the approved final recovery plan. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your comment—including your personal identifying information—may be made publicly available at any time. You may request at the top of your comment that we withhold this information from public review; however, we cannot guarantee that we will be able to do so.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Anna Muñoz,

Acting Deputy Regional Director, Lakewood, Colorado.

[FR Doc. 2021–27014 Filed 12–13–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX22GS00EMMA900]

Extension of Public Comment Period for the 2021 Draft List of Critical Minerals

AGENCY: Geological Survey, Department of the Interior.

ACTION: Notice of extension, reopening the public comment period.

SUMMARY: The U.S Geological Survey published a document in the **Federal Register** on November 9, 2021, that presented a description of the methodology used to identify a draft list of critical minerals; a draft list of minerals, elements, substances, and materials that qualify as critical minerals; [1] and a draft list of critical minerals recovered as byproducts and their host minerals. This notice announces a 32-day extension of the public comment period.

DATES: The comment period for the notice published November 9, 2021, 86 FR 62201, is reopened. Comments will be received until January 10, 2022.

ADDRESSES: You may submit written comments online at *http://www.regulations.gov* by entering ''DOI–2021–0013'' in the Search bar and clicking ''Search'' or by mail to Draft List of Critical Minerals, MS–102, U.S. Geological Survey, 12201 Sunrise Valley Dr., Reston, VA 20192.

FOR FURTHER INFORMATION CONTACT: James Mosley, (703) 648–6312,

[1] Final Critical Minerals List 2018 *https://www.federalregister.gov/documents/2018/05/18/2018-10667/* final-list-of-critical-minerals-2018.

jmosley@usgs.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Mr. Mosley during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with this individual. You will receive a reply during normal business hours. Normal business hours are 9:00 a.m. to 5:30 p.m., Monday through Friday, except for Federal holidays.

SUPPLEMENTARY INFORMATION: Pursuant to Section 7002 (''Mineral Security'') of Title VII (''Critical Minerals'') of the Energy Act of 2020 (The Energy Act) (Pub. L. 116–260, December 27, 2020, 116th Cong.),[2] the Secretary of the Interior (The Secretary), acting through the Director of the U.S. Geological Survey, and in consultation with the Secretaries of Defense, Commerce, Agriculture, and Energy and the United States Trade Representative, is to ''publish in the **Federal Register** for public comment—(A) a description of the draft methodology used to identify a draft list of critical minerals; (B) a draft list of minerals, elements, substances, and materials that qualify as critical minerals; and (C) a draft list of critical minerals recovered as byproducts and their host minerals.'' Under the Energy Act, Sec. 7002 (c)(5)(A) the methodology and list shall be reviewed at least every 3 years.

On behalf of the Secretary, the Associate Director for Natural Hazards exercising the authority of the Director of the U.S. Geological Survey presents here a draft list of 50 mineral commodities proposed for inclusion on the 2021 list of critical minerals: Aluminum, antimony, arsenic, barite, beryllium, bismuth, cerium, cesium, chromium, cobalt, dysprosium, erbium, europium, fluorspar, gadolinium, gallium, germanium, graphite, hafnium, holmium, indium, iridium, lanthanum, lithium, lutetium, magnesium, manganese, neodymium, nickel, niobium, palladium, platinum, praseodymium, rhodium, rubidium, ruthenium, samarium, scandium, tantalum, tellurium, terbium, thulium, tin, titanium, tungsten, vanadium, ytterbium, yttrium, zinc, and zirconium.

Much of the increase in the number of mineral commodities, from 35 commodities and groups on the final 2018 list to 50 commodities on the 2021 draft list, is the result of splitting the rare earth elements and platinum group elements into individual entries rather than including them as mineral groups. In addition, the 2021 draft list adds nickel and zinc and removes helium, potash, rhenium, and strontium. The Energy Act of 2020 explicitly excluded fuel minerals from the definition of a critical mineral and the Mining and Mineral Policy Act of 1970 [3] formally defined uranium as a mineral fuel, so uranium was not evaluated for inclusion on the 2021 draft list of critical minerals.

Minerals were included on the 2021 draft list of critical minerals based on three evaluations: (1) A quantitative evaluation wherever sufficient data were available, (2) a semi-quantitative evaluation of whether the supply chain had a single point of failure, and (3) a qualitative evaluation when other evaluations were not possible. The report [4] describing the methodology and the technical input from the U.S. Geological Survey may be found at the following link: *https://doi.org/10.3133/ofr20211045* and further details are summarized in the supplementary information section below. The U.S. Geological Survey seeks comments on the make-up of the draft list and the rationale associated with potential additions or subtractions to the draft list as described in the methodology report.

The Energy Act of 2020, Section 7002(c)(4)(A), defined critical minerals as those which:

(i) ''are essential to the economic or national security of the United States;

(ii) the supply chain of which is vulnerable to disruption (including restrictions associated with foreign political risk, abrupt demand growth, military conflict, violent unrest, anti-competitive or protectionist behaviors, and other risks through-out the supply chain); and

(iii) serve an essential function in the manufacturing of a product (including energy technology-, defense-, currency-, agriculture-, consumer electronics-, and healthcare-related applications), the absence of which would have significant consequences for the economic or national security of the United States.''

Section 7002(a)(3)(B) further defined the term by stating that ''The term ''critical mineral'' does not include—

(i) fuel minerals;

(ii) water, ice, or snow;

(iii) common varieties of sand, gravel, stone, pumice, cinders, and clay.''

The Mining and Minerals Policy Act of 1970, 30 U.S.C. 21(a), defined ''mineral fuels'' as ''including oil, gas, coal, oil shale and uranium''. Based on these definitions, uranium was not evaluated for inclusion on the 2021 draft list of critical minerals.

The U.S. Government and other organizations may also use other definitions and rely on other criteria to identify a material or mineral as ''critical'' or otherwise important. This list is not intended to replace related terms and definitions of materials that are deemed strategic, critical or otherwise important (such as definitions related to the National Defense Stockpile, Specialty Materials, and Militarily Critical Materials). In addition, there are many minerals not listed on the critical minerals list that are important to the U.S. economy. These materials are not considered critical as defined by the Energy Act because the U.S. largely meets its needs for these through domestic mining and processing and thus a supply disruption is considered unlikely.

The 2021 draft list of critical minerals is based on a methodology developed over several years with leadership by the U.S. Geological Survey and interagency input coordinated by the White House Office of Science and Technology Policy's National Science and Technology Council (NSTC) Critical Minerals Subcommittee. The 2021 update to the methodology was published by the U.S. Geological Survey in 2021 (*https://doi.org/10.3133/ofr20211045*) and includes three evaluations: (1) A quantitative evaluation wherever sufficient data were available, (2) a semi-quantitative evaluation of whether the supply chain had a single point of failure, and (3) a qualitative evaluation when other evaluations were not possible. The quantitative evaluation is an enhancement of the NSTC methodology published in 2018 (*https://doi.org/10.3133/ofr20181021*) and used to develop the 2018 list of critical minerals. The 2021 quantitative evaluation uses (A) a net import reliance indicator of the dependence of the U.S. manufacturing sector on foreign supplies, (B) an enhanced production concentration indicator which focuses on production concentration outside of the United States, (C) weights for each producing country's production contribution by its ability or willingness to continue to supply the United States, and converts the 2018 methodology's qualitative evaluation of economic

[2] Energy Act of 2020 (Division Z of the Consolidated Appropriations Act, 2021): *https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-116HR133SA-RCP-116-68.pdf.*

[3] Mining and Minerals Policy Act of 1970 *https://openei.org/wiki/Mining_and_Minerals_Policy_Act_of_1970.*

[4] Nassar, N.T., and Fortier, S.M., 2021, Methodology and technical input for the 2021 review and revision of the U.S. Critical Minerals List: U.S. Geological Survey Open-File Report 2021–1045, 31 p., *https://doi.org/10.3133/ofr20211045.*

importance into a quantitative evaluation of economic vulnerability for the U.S. manufacturing sector. Further details on the underlying rationale and the specific approach, data sources, and assumptions used to calculate each component of the supply risk metrics are described in the references cited in this notice.

Table 1 shows the result of the review of the list of critical minerals for 2021, ranked in order of decreasing supply chain risk when a quantitative evaluation was possible. The table columns indicate whether each mineral commodity recommended for inclusion on the 2021 draft list of critical minerals, the basis for the recommendation (quantitative evaluation, single point of failure, or qualitative evaluation), whether the commodity was included in on the 2018 final list of critical minerals, and whether it is produced primarily as a byproduct of another mineral commodity. Of the sixty-six mineral commodities listed in Table 1, fifty-four (82% of the minerals considered) could be evaluated using the quantitative NSTC methodology. This includes mineral commodities that are recommended for inclusion on the list based on a single point of supply chain failure, as applicable, even if the commodity did not meet the quantitative threshold cutoff. See methodology references for further details.

TABLE 1—SUMMARY OF EVALUATION OF MINERAL COMMODITIES FOR THE 2021 LIST OF CRITICAL MINERALS

Highest to lowest supply chain risk, based on quantitative evaluation [5]	Mineral commodity	Included on draft 2021 list of critical minerals?	Basis for recommended inclusion	On 2018 list of critical minerals?	Predominantly recovered as byproduct? [6]
1	Gallium	Yes	Quantitative evaluation	Yes	Yes.
2	Niobium	Yes	Quantitative evaluation	Yes	No.
3	Cobalt	Yes	Quantitative evaluation	Yes	Yes.
4	Neodymium	Yes	Quantitative evaluation	Yes	Yes.
5	Ruthenium	Yes	Quantitative evaluation	Yes	Yes.
6	Rhodium	Yes	Quantitative evaluation	Yes	Yes.
7	Dysprosium	Yes	Quantitative evaluation	Yes	Yes.
8	Aluminum	Yes	Quantitative evaluation	Yes	No.
9	Fluorspar	Yes	Quantitative evaluation	Yes	No.
10	Platinum	Yes	Quantitative evaluation	Yes	No.
11	Iridium	Yes	Quantitative evaluation	Yes	Yes.
12	Praseodymium	Yes	Quantitative evaluation	Yes	Yes.
13	Cerium	Yes	Quantitative evaluation	Yes	Yes.
14	Lanthanum	Yes	Quantitative evaluation	Yes	Yes.
15	Bismuth	Yes	Quantitative evaluation	Yes	Yes.
16	Yttrium	Yes	Quantitative evaluation	Yes	Yes.
17	Antimony	Yes	Quantitative evaluation	Yes	Yes.
18	Tantalum	Yes	Quantitative evaluation	Yes	No.
19	Hafnium	Yes	Quantitative evaluation	Yes	Yes.
20	Tungsten	Yes	Quantitative evaluation	Yes	No.
21	Vanadium	Yes	Quantitative evaluation	Yes	Yes.
22	Tin	Yes	Quantitative evaluation	Yes	No.
23	Magnesium	Yes	Quantitative evaluation	Yes	No.
24	Germanium	Yes	Quantitative evaluation	Yes	Yes.
25	Palladium	Yes	Quantitative evaluation	Yes	Yes.
26	Titanium	Yes	Quantitative evaluation	Yes	No.
27	Zinc	Yes	Quantitative evaluation	No	No.
28	Graphite	Yes	Quantitative evaluation	Yes	No.
29	Chromium	Yes	Quantitative evaluation	Yes	No.
30	Arsenic	Yes	Quantitative evaluation	Yes	Yes.
31	Barite	Yes	Quantitative evaluation	Yes	No.
32	Indium	Yes	Quantitative evaluation	Yes	Yes.
33	Samarium	Yes	Quantitative evaluation	Yes	Yes.
34	Manganese	Yes	Quantitative evaluation	Yes	No.
35	Lithium	Yes	Quantitative evaluation	Yes	No.
36	Tellurium	Yes	Quantitative evaluation	Yes	Yes.
37	Lead	No	Not applicable	No	No.
38	Potash	No	Not applicable	Yes	No.
39	Strontium	No	Not applicable	Yes	No.
40	Rhenium	No	Not applicable	Yes	Yes.
41	Nickel	Yes	Single point of failure	No	No.
42	Copper	No	Not applicable	No	No.
43	Beryllium	Yes	Single point of failure	Yes	No.
44	Feldspar	No	Not applicable	No	No.
45	Phosphate	No	Not applicable	No	No.
46	Silver	No	Not applicable	No	Yes.
47	Mica	No	Not applicable	No	No.
48	Selenium	No	Not applicable	No	Yes.
49	Cadmium	No	Not applicable	No	Yes.
50	Zirconium	Yes	Single point of failure	Yes	Yes.
51	Molybdenum	No	Not applicable	No	No.
52	Gold	No	Not applicable	No	No.
53	Helium	No	Not applicable	Yes	Yes.

TABLE 1—SUMMARY OF EVALUATION OF MINERAL COMMODITIES FOR THE 2021 LIST OF CRITICAL MINERALS—Continued

Highest to lowest supply chain risk, based on quantitative evaluation [5]	Mineral commodity	Included on draft 2021 list of critical minerals?	Basis for recommended inclusion	On 2018 list of critical minerals?	Predominantly recovered as byproduct? [6]
54	Iron ore	No	Not applicable	No	No.
([7])	Cesium	Yes	Qualitative evaluation	Yes	Yes.
([8])	Erbium	Yes	Qualitative evaluation	Yes	Yes.
([8])	Europium	Yes	Qualitative evaluation	Yes	Yes.
([8])	Gadolinium	Yes	Qualitative evaluation	Yes	Yes.
([8])	Holmium	Yes	Qualitative evaluation	Yes	Yes.
([8])	Lutetium	Yes	Qualitative evaluation	Yes	Yes.
([8])	Rubidium	Yes	Qualitative evaluation	Yes	Yes.
([8])	Scandium	Yes	Qualitative evaluation	Yes	Yes.
([8])	Terbium	Yes	Qualitative evaluation	Yes	Yes.
([8])	Thulium	Yes	Qualitative evaluation	Yes	Yes.
([8])	Uranium	Not evaluated	Not applicable	Yes	No.
([8])	Ytterbium	Yes	Qualitative evaluation	Yes	Yes.

Table 1 [5] [6] [7] [8] includes 11 mineral commodities that are not recommended for inclusion on the 2021 list of critical minerals. These mineral commodities did not meet the NSTC quantitative evaluation criteria, were determined not to have a single point of failure and were not included on the 2018 list of critical minerals. These eleven commodities (17% of the minerals evaluated) are: Lead, copper, feldspar, phosphate, silver, mica, selenium, cadmium, molybdenum, gold, and iron ore, ranked in order of their overall supply chain risk. While several of these are essential mineral commodities, their supply chain vulnerability is mitigated by domestic production, lack of import dependence, and diverse, secure sources of supply.

Mineral commodities that did not meet the criteria for the NSTC quantitative evaluation, but that have an identified single point of supply chain failure and an essential economic function, are recommended for inclusion on the 2021 list of critical minerals regardless of whether the commodities in question were on the 2018 list. Examples are beryllium and zirconium, which were on the 2018 list, and nickel, which was not. Increasing demand for nickel as a component for producing cathodes for lithium-ion batteries, and the limited mining, smelting, and refinery capacity in the United States make a compelling case for inclusion.

Zinc, which was not on the 2018 list of critical minerals, was above the quantitative threshold for inclusion on the 2021 draft list of critical minerals due to the increasing concentration of mine and smelter capacities globally and the continued refinement and development of the quantitative evaluation criteria.

Potash, rhenium, and strontium were on the 2018 list of critical minerals but do not meet the quantitative threshold and do not have a single point of failure. Potash, strontium, and rhenium have supply risk scores just below the quantitative threshold. This highlights the fact that the metrics developed with this methodology are best viewed as a continuum of supply risk rather than an as indication that supply risk does not exist for commodities below the quantitative cutoff. These three commodities all had very high trade exposure but low disruption potential. This reflects the fact that, while the United States was highly net import reliant for all three commodities, the production of these minerals was either not highly concentrated or was concentrated in countries considered to be reliable trade partners. Any changes in the supply chain dynamics of these commodities will be closely monitored, but none of the three is recommended for inclusion on the 2021 draft list of critical minerals.

Helium (like potash, rhenium, and strontium) was on the 2018 list of critical minerals but does not meet the quantitative threshold nor have a single point of failure. The United States is the world's leading producer and a net exporter of helium. Helium's trade exposure score was thus 0 and, in turn, its supply risk score was 0. Crude helium was produced in more than a dozen plants across several U.S. States, and several other plants produced grade-A Helium. Therefore, helium does not qualify for inclusion on the list based on the single point of failure criterion. Helium production outside the United States was concentrated in Qatar and Algeria. Both countries, as well as Canada, Russia, and Tanzania, are poised to increase their production as additional capacity becomes available in the near term. The Helium Stewardship Act of 2013-directed closure of the Federally managed helium reserve by the Bureau of Land Management has the potential to increase uncertainty in the market. The global shift from conventional natural gas toward shale gas, which lacks recoverable quantities of helium, also has the potential to reduce the supply of helium, especially for the United States. While these factors make helium a commodity that bears watching, it is not recommended for inclusion on the 2021 draft list of critical minerals.

There were insufficient data to quantitatively evaluate several commodities that were on the 2018 list of critical minerals: Cesium, rubidium, scandium, and several REEs (europium, gadolinium, terbium, holmium, erbium, thulium, ytterbium, and lutetium). The United States has been completely net import reliant for all these commodities

[5] Ranked in order from highest to lowest risk based on a recency-weighted mean of the commodities' overall supply risk scores. See the published methodology (*https://doi.org/10.3133/ofr20211045*) for further details.

[6] Most mineral commodities are recovered as byproducts to some degree, but the share of primary production as a byproduct for the mineral commodities that are not identified as byproducts in the table is typically small. Rare earth elements (REEs) are mined both as byproducts of other mineral commodities (for example, iron ore or heavy-mineral sands) and as the main product. Where REEs are mined as the main product, the individual REEs are either byproducts or coproducts of each other. For simplicity, all REEs are labeled in the table as having been produced mostly as byproducts. Byproduct status can and does change, although notable changes over short periods of time are rare.

[7] Commodities that were not evaluated using the quantitative evaluation are not given a rank and are ordered alphabetically.

[8] USGS Mineral Commodity Summaries 2021 *https://pubs.usgs.gov/periodicals/mcs2021/mcs2021.pdf.*

for many years.[8] No specific global production data were available for these commodities; however, general information suggests that production for each of these commodities is highly concentrated in a few countries. Scandium was produced mainly as a byproduct in China, Kazakhstan, the Philippines, Russia, and Ukraine. Cesium and rubidium had been produced in Australia, Canada, China, Namibia, and Zimbabwe; however, it is thought that all cesium and rubidium mine production outside of China has either ceased in recent years or come under control of Chinese companies. The REEs that were not analyzed because of the lack of data (namely europium, gadolinium, terbium, holmium, erbium, thulium, ytterbium, and lutetium) were all heavy REEs that were produced only or predominantly in China. Based on this qualitative evaluation, none of these commodities are recommended for removal from the list of critical minerals.

Mineral criticality is not static, but changes over time. This analysis represents the most recent available data for non-fuel mineral commodities and the current state of the methodology for evaluation of criticality.

Please submit written comments on this draft list by January 10, 2022, to facilitate consideration. We will still accept comments received in the gap period. In particular, the U.S. Geological Survey is interested in comments addressing the following topics: The make-up of the draft list and the rationale associated with potential additions or subtractions to the draft list. Before including your address, phone number, email address, or other personally identifiable information (PII) in your comment, you should be aware that your entire comment, including your PII, may be made publicly available at any time. While you can ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Authority: E.O. 13817, 82 FR 60835 (December 26, 2017) and The Energy Act of 2020, Section 7002 of Title VII (December 27, 2020).

Dated: December 9, 2021.

James D. Applegate,

Associate Director for Natural Hazards, Exercising the Delegated Authority of the Director, U.S. Geological Survey.

[FR Doc. 2021–27001 Filed 12–13–21; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[20X.LLAZC03000.L51050000.EA0000.LVRCA20SA090; AZ–SRP–030–15–01]

Notice of Temporary Closure and Temporary Restrictions of Selected Public Lands in La Paz County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closure and restrictions.

SUMMARY: As authorized under the provisions of the Federal Land Policy and Management Act of 1976, as amended, notice is hereby given that temporary closures and temporary restrictions of activities will be in effect on public lands administered by the Lake Havasu Field Office, Bureau of Land Management (BLM) to minimize the risk of potential collisions with spectators and racers during the annual Best in the Desert (BITD) off-highway vehicle (OHV) race events, Parker 250 and Parker 425, authorized under a Special Recreation Permit (SRP).

DATES: This notice is effective upon publication. The temporary restrictions for the Parker 250 take effect at 11:59 p.m., January 4, 2022, through 11:59 p.m., January 9, 2022. The temporary closure for the Parker 250 takes effect at 11:59 p.m., January 5, 2022, through 11:59 p.m., January 9, 2022. The temporary restrictions for the Parker 425 take effect at 11:59 p.m., January 18, 2022, through 11:59 p.m., January 23, 2022. The temporary closure for the Parker 425 takes effect at 11:59 p.m., January 19, 2022, through 11:59 p.m., January 23, 2022. All times are listed in local time.

FOR FURTHER INFORMATION CONTACT: Jason West, Field Manager, BLM Lake Havasu Field Office, 1785 Kiowa Avenue, Lake Havasu City, Arizona 86403, telephone: (928) 505–1200; email: *jrwest@blm.gov.* Also see the Lake Havasu Field Office website: *https://www.blm.gov/office/lake-havasu-field-office.* Persons who use a telecommunications device for hearing impaired (TDD) may call the Federal Relay Service (FRS) at (800) 877–8339 to contact Mr. West during normal business hours. FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: On January 6, 2015, the Decision Record authorizing the BITD Parker Races SRP was signed. This permit authorizes the BITD to utilize the Parker 400 course for the Parker 250 race event on January 6 through 9, 2022, and for the Parker 425 race event on January 20 through 23, 2022. The permit is authorized from 2015 through 2024. The Environmental Assessment analyzing these routes (EA #DOI–BLM–AZ–C030–2014–0040) concluded that allowing permitted motorized racers exclusive use of the *Lake Havasu Field Office Record of Decision/Approved Resource Management Plan* (2007) designated Parker 400 course would mitigate safety concerns. These routes receive the most intense and concentrated high-speed use during the two annual permitted events.

These temporary closures and restrictions affect public lands in and around the Parker 400 course near the communities of Parker and Bouse in La Paz County, Arizona. The temporary closure applies to all public use, including pedestrian and vehicles, unless excepted. The temporary closure area follows the Parker 400 course as designated in the 2007 Lake Havasu Resource Management Plan.

Within the temporary restriction area, the temporary restrictions apply in addition to all existing regulations. The temporary restriction area begins on public lands east of the eastern boundary of the Colorado River Indian Tribe (CRIT) Reservation, along Shea Road, then east into Osborne Wash onto the Parker-Swansea Road to the Central Arizona Project (CAP) Canal, then north on the west side of the CAP Canal, crossing the canal on the county-maintained road, running northeast into Mineral Wash Canyon, then southeast on the county-maintained road, through the four-corners intersection to the Midway (Pit) intersection, then east on Transmission Pass Road, through State Trust Land located in Butler Valley, turning north into Cunningham Wash to North Tank, continuing south to Transmission Pass Road and east (reentering public land) within two miles of Alamo Dam Road. The temporary restriction area boundary turns south and west onto the wooden power line road, onto the State Trust Land in Butler Valley, turning southwest into Cunningham Wash to the Graham Well, intersecting Butler Valley Road, then north and west on the county-maintained road to the ''Bouse Y'' intersection, two miles north of Bouse, Arizona. The temporary restriction area boundary proceeds north, paralleling the Bouse-Swansea Road to the Midway (Pit) intersection, then west along the north boundary (power line) road of the East Cactus Plain Wilderness Area to Parker-

Swansea Road. The temporary restriction area boundary turns west into Osborne Wash crossing the CAP Canal, along the north boundary of the Cactus Plain Wilderness Study Area; it continues west staying in Osborne Wash and crossing Shea Road along the southern boundary of Gibraltar Wilderness, rejoining Osborne Wash at the CRIT Reservation boundary.

The temporary closures and restrictions are necessary because of the high-speed nature of the race event and the added safety concerns due to the limited visibility when there is no daylight. Roads leading into the public lands under the temporary closure and restrictions will be posted with copies of the temporary closure, temporary restrictions, and associated maps to notify the public. The temporary closure and restriction orders will be posted in the Lake Havasu Field Office and online at: *https://www.blm.gov/office/lake-havasu-field-office.* Maps of the affected area and other documents associated with this temporary closure and restriction are available at the Lake Havasu Field Office, 1785 Kiowa Avenue, Lake Havasu City, Arizona.

The closures and restrictions are issued under the authority of 43 CFR 8364.1, which allows the BLM to establish closures for the protection of persons, property, and public lands and resources. Violation of any of the terms, conditions, or restrictions contained within this closure order may subject the violator to citation or arrest with a penalty of a fine or imprisonment or both as specified by law.

Temporary Closure

a. The designated racecourse as shown in the Lake Havasu Field Office approved RMP and Decision Record is closed to public entry during the temporary closure, with the following exceptions:

i. The person is an employee or authorized volunteer with the BLM, a law enforcement officer, emergency medical service provider, fire protection provider, or another public agency employee working at and assigned to the event; or

ii. The person is working at or attending the event directly on behalf of the permit holder.

b. Motor vehicles may be operated within the temporary closure area under the circumstances listed below:

i. Race participants and support vehicles on designated routes;

ii. BLM, medical, law enforcement, and firefighting vehicles are authorized at all times; and

iii. Vehicles operated by the permit holder's staff or contractors and volunteers are authorized at all times. These vehicles must display evidence of event registration at all times in such a manner that it is visible on the front of the vehicle while the vehicle is in motion.

Temporary Restrictions

1. Environmental Resource Management and Protection

a. Cutting or collecting firewood of any kind, including dead and downed wood or other vegetative material, is prohibited.

b. *Grey Water Discharge:* The discharge and dumping of grey water onto the ground surface is prohibited. Grey water is defined as water that has been used for cooking, washing, dishwashing, or bathing and/or contains soap, detergent, food scraps, or food residue, regardless of whether such products are biodegradable or have been filtered or disinfected.

c. *Human Waste:* The depositing of human waste (liquid and/or solid) on the ground surface is prohibited.

2. Alcohol/Prohibited Substance

a. Possession of alcohol by minors. Selling, offering to sell, or otherwise furnishing or supplying any alcoholic beverage to a person under 21 years of age on public lands is prohibited.

3. Drug Paraphernalia

a. The possession of drug paraphernalia is prohibited.

4. Disorderly Conduct

a. Disorderly conduct is prohibited. Disorderly conduct means that an individual, with the intent of recklessly causing public alarm, nuisance, jeopardy, or violence, or recklessly creating a risk thereof:

i. Engages in fighting or violent behavior; or

ii. Uses language, an utterance or gesture, or engages in a display or act that is physically threatening or menacing or done in a manner that is likely to inflict injury or incite an immediate breach of the peace.

5. Eviction of Persons

a. The temporary restriction area is closed to any person who:

i. Has been evicted from the event by the permit holder, whether or not the eviction was requested by the BLM;

ii. Has been evicted from the event by the BLM; or

iii. Has been ordered by a law enforcement officer to leave the area of the permitted event.

b. Any person evicted from the event forfeits all privileges to be present within the temporary restriction area.

6. Motor Vehicles

a. Motor vehicles must comply with the following requirements:

i. Motor vehicle operators must possess evidence of valid insurance.

ii. Motor vehicles and trailers must not block a street used for vehicular travel or a pedestrian pathway. Parking any off-highway vehicle in violation of posted restrictions, or in such a manner as to obstruct or impede normal or emergency traffic movement or the parking of other vehicles, creating a safety hazard, or endangering any person, property, or feature is prohibited. Vehicles parked in violation are subject to citation, removal, and/or impoundment at the owner's expense.

iii. Operating a vehicle through, around, or beyond a restrictive sign, barricade, fence, or traffic control barrier or device is prohibited.

iv. Failure to obey any person authorized to direct traffic or control access to event area including law enforcement officers, BLM officials, and designated race officials is prohibited.

7. Public Camping

a. The temporary restriction area is closed to public camping with the following exceptions:

i. The permitted event's spectators, who are camped in designated spectator areas, as marked by protective fencing, barriers, and informational signage provided by the permit holder; and

ii. The permit holder's authorized staff, contractors, and BLM-authorized event managers.

b. Spectator area site reservations, or denying other visitors or parties from utilizing unoccupied portions of the spectator area by marking with flags, tape, posts, cones, etc. is prohibited. Vehicles and trailers may not be left unattended for over 72 hours.

c. Failure to observe restricted area quiet hours of midnight to 6 a.m. is prohibited.

8. Weapons

a. Discharging or use of firearms or other weapons is prohibited.

b. The prohibition above shall not apply to county, State, tribal, and Federal law enforcement personnel who are working in their official capacity at the event.

9. Public Use

a. Failure to obey any official sign posted by the BLM, law enforcement, La Paz County, or the permit holder is prohibited.

Existing Regulations

The following list of existing regulations is not intended to be

comprehensive. A complete list of laws and regulations applicable to public lands in Arizona may be viewed at: *http://www.azd.uscourts.gov/sites/default/files/general-orders/19-14.pdf.*

1. Environmental Resource Management and Protection

a. No person may deface, disturb, remove, or destroy any natural object—43 CFR 8365.1–5(a)(1).

b. *Fireworks:* The use, sale, or possession of personal fireworks is prohibited—43 CFR 9212.1(h).

c. *Black Water Discharge:* The discharge and dumping of black water onto the ground surface is prohibited. Black water is defined as wastewater containing feces, urine, and/or flush water—43 CFR 8365.1–1(b)(3).

d. *Trash:* The discharge of any trash or litter onto the ground surface is prohibited. All event participants must pack out or properly dispose of all trash at an appropriate disposal facility—43 CFR 8365.1–1(b)(1).

e. *Hazardous Materials:* The dumping or discharge of vehicle oil, petroleum products, or other hazardous household, commercial, or industrial refuse or waste onto the ground surface is prohibited. This applies to all recreational vehicles, trailers, motorhomes, port-a-potties, generators, and other camp infrastructure—43 CFR 8365.1–1(b)(3).

2. Alcohol/Prohibited Substance

a. Possession of an open container of an alcoholic beverage by the driver or operator of any motorized vehicle, whether or not the vehicle is in motion, is prohibited—43 CFR 8365.1–6.

b. Possession of alcohol by minors. Consumption or possession of any alcoholic beverage by a person under 21 years of age on public lands is prohibited—43 CFR 8365.1–6 Supplementary Rule 63 FR 43716.

c. Operation of a motor vehicle while under the influence of alcohol, marijuana, narcotics, or dangerous drugs is prohibited—43 CFR 8341.1(f)(3).

3. Disorderly Conduct

a. Obstructing, resisting, or attempting to elude a law enforcement officer, or fails to follow their orders or directions is prohibited—43 CFR 8365.1–4(a)(4).

4. Motor Vehicles

a. Motor vehicles must comply with the following requirements:

i. The operator of a motor vehicle must possess a valid driver's license—43 CFR 8341.1(e).

ii. Motor vehicles and trailers must possess evidence of valid registration—43 CFR 8341.1(d).

iii. Motor vehicles must not exceed the posted speed limit—43 CFR 8341.1(f)(2).

5. Pets or Other Animals

a. Allowing any pet or other animal to be unrestrained is prohibited. All pets must be restrained by a leash of not more than six feet in length—43 CFR 8365.2–1(c).

Enforcement: Any person who violates these closures or restrictions may be tried before a United States magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.0–7, or both. In accordance with 43 CFR 8365.1–7, State or local officials may also impose penalties for violations of Arizona law.

(Authority: 43 CFR 8364.1)

Adam Cochran,

Acting Field Manager.

[FR Doc. 2021–26958 Filed 12–13–21; 8:45 am]

BILLING CODE 4310–32–P

NATIONAL INDIAN GAMING COMMISSION

Privacy Act of 1974; System of Records

AGENCY: National Indian Gaming Commission.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the National Indian Gaming Commission (NIGC) proposes to establish a new system of records entitled, ''NIGC Reasonable Accommodations Records.'' This system of records will include information that the NIGC collects and maintains on applicants for employment and employees who request and/or receive reasonable accommodations from NIGC for medical or religious reasons.

DATES: Submit comments on or before January 13, 2022. This new system is effective upon publication in the **Federal Register**, except for the routine uses, which are effective January 13, 2022.

ADDRESSES: You may submit written comments by email to *privacy@nigc.gov*.

FOR FURTHER INFORMATION CONTACT: Tim Osumi, 202–264–0676, *tim.osumi@nigc.gov*.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, the National Indian Gaming Commission (NIGC) proposes to establish a new system of records titled, ''NIGC Reasonable Accommodations Records.'' This system of records covers NIGC's collection and maintenance of records on applicants for employment, employees, and other individuals who participate in NIGC programs or activities who request or receive reasonable accommodations or other appropriate modifications from NIGC for medical or religious reasons. Title V of the Rehabilitation Act of 1973, as amended, prohibits discrimination in services and employment on the basis of disability, and Title VII of the Civil Rights Act of 1974 prohibits discrimination, including on the basis of religion. These prohibitions on discrimination require Federal agencies to provide reasonable accommodations to individuals with disabilities and those with sincerely held religious beliefs unless doing so would impose an undue hardship on the agency. In some instances, individuals may request modifications to their workspace, schedule, duties, or other requirements for documented medical reasons that may not qualify as a disability but may necessitate an appropriate modification to workplace policies and practices. Reasonable accommodations may include, but are not limited to: Making existing facilities readily accessible to individuals with disabilities; restructuring jobs, modifying work schedules or places of work, and providing flexible scheduling for medical appointments or religious observance; acquiring or modifying equipment or examinations or training materials; providing qualified readers and interpreters, personal assistants, service animals; granting permission to wear religious dress, hairstyles, or facial hair or to observe a religious prohibition against wearing certain garments; considering requests for medical and religious exemptions to specific workplace requirements; and making other modifications to workplace policies and practices. NIGC's Human Resources Office processes requests for reasonable accommodations from employees and applicants for employment, respectively, who require an accommodation due to a medical or religious reason. NIGC's Human Resources Office also processes requests based on documented medical reasons that may not qualify as a disability but that necessitate an appropriate modification to workplace policies and practices. The request, documentation provided in support of the request, any evaluation conducted internally or by a third party under contract to NIGC, the decision regarding whether to grant or deny a request, and the details and conditions of the reasonable

accommodation are all included in this system of records. NIGC has provided a report of this system of records to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget (OMB), pursuant to 5 U.S.C. 552a(r) and OMB Circular A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,'' dated December 23, 2016. This system will be included in the NIGC inventory of record systems.

SYSTEM NAME AND NUMBER:

NIGC Reasonable Accommodations Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained primarily by the NIGC Human Resource Office located at 90 K Street NE, Suite 200, Washington, DC 20002. Records may be located in locked cabinets and offices, on NIGC's local area network, or in designated U.S. data centers for FedRAMP-authorized cloud service providers.

SYSTEM MANAGER(S):

Human Resources Administrator, 90 K Street NE, Suite 200, Washington, DC 20002.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Rehabilitation Act of 1973, 29 U.S.C. 701, 791, 794; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e; 29 CFR 1605 (Guidelines on Discrimination Because of Religion); 29 CFR 1614 (Federal Sector Equal Employment Opportunity); 29 CFR 1614 (Regulations to Implement the Equal Employment Provisions of the Americans With Disabilities Act); 5 U.S.C. 302, 1103; Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation (July 26, 2000); and Executive Order 13548, Increasing Federal Employment of Individuals with Disabilities (July 26, 2010).

PURPOSE(S) OF THE SYSTEM:

The purpose of this system of records is to allow NIGC to collect and maintain records on applicants for employment, employees, and other individuals who participate in NIGC programs or activities who request or receive reasonable accommodations or other appropriate modifications from NIGC for medical or religious reasons; to process, evaluate, and make decisions on individual requests; and to track and report the processing of such requests agency-wide to comply with applicable requirements in law and policy.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for Federal employment, Federal employees, and visitors to Federal buildings who requested and/or received reasonable accommodations or other appropriate modifications from NIGC for medical or religious reasons. It also covers individuals or representatives (*e.g.,* a family member or attorney) authorized to request reasonable accommodation on behalf of an applicant for employment or employee.

CATEGORIES OF RECORDS IN THE SYSTEM:

- Requester's name;
- Requester's status (applicant or current employee);
- Date of request;
- Employee's position title, grade, series, step;
- Position title, grade, series, step of the position the requester is applying for;
- Requester's contact information (addresses, phone numbers, and email addresses);
- Description of the requester's medical condition or disability and any medical documentation provided in support of the request; Requester's statement of a sincerely held religious belief and any additional information provided concerning that religious belief and the need for an accommodation to exercise that belief;
- Description of the accommodation being requested;
- Description of previous requests for accommodation;
- Whether the request was made orally or in writing;
- Documentation by an NIGC official concerning whether the disability is obvious, and the accommodation is obvious and uncomplicated, whether medical documentation is required to evaluate the request, whether research is necessary regarding possible accommodations, and any extenuating circumstances that prevent the NIGC official from meeting the relevant timeframe;
- Whether the request for reasonable accommodation was granted or denied, and if denied the reason for the denial;
- The amount of time taken to process the request;
- The sources of technical assistance consulted in trying to identify a possible reasonable accommodation;
- Any reports or evaluations prepared in determining whether to grant or deny the request; and
- Any other information collected or developed in connection with the request for a reasonable accommodation.

RECORD SOURCE CATEGORIES:

Information is obtained from the individuals who request and/or receive a reasonable accommodation or other appropriate modification from NIGC, directly or indirectly from an individual's medical provider or another medical professional who evaluates the request, directly or indirectly from an individual's religious or spiritual advisors or institutions, and from management officials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside NIGC as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

a. To the Department of Justice, including Offices of the U.S. Attorneys; another Federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body; another party in litigation before a court, adjudicative, or administrative body; or to a court, adjudicative, or administrative body. Such disclosure is permitted only when it is relevant or necessary to the litigation or proceeding, and one of the following is a party to the litigation or has an interest in such litigation:

(1) NIGC, or any component thereof;

(2) Any employee or former employee of NIGC in his or her official capacity;

(3) Any employee or former employee of NIGC in his or her capacity where the Department of Justice or NIGC has agreed to represent the employee;

(4) The United States, a Federal agency, or another party in litigation before a court, adjudicative, or administrative body, upon the NIGC General Counsel's approval, pursuant to 5 CFR part 295 or otherwise.

b. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates it is relevant to a violation or potential violation of civil or criminal law or regulation.

c. To a member of Congress for the record of an individual in response to

an inquiry made at the request of the individual to whom the record pertains.

d. To the National Archives and Records Administration (NARA) for records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

e. To appropriate agencies, entities, and persons when (1) NIGC suspects or has confirmed that there has been a breach of the system of records; (2) NIGC has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, NIGC (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NIGC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

f. To another Federal agency or Federal entity, when NIGC determines that information from the system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

g. To contractors, grantees, experts, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, or other assignment for NIGC when NIGC determines that it is necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to NIGC employees.

h. To another federal agency or commission with responsibility for labor or employment relations or other issues, including equal employment opportunity and reasonable accommodation issues, when that agency or commission has jurisdiction over reasonable accommodation.

i. To an authorized appeal grievance examiner, formal complaints examiner, administrative judge, equal employment opportunity investigator, arbitrator, or other duly authorized official who engages in investigation or settlement of a grievance, complaint, or appeal filed by an individual who requested a reasonable accommodation or other appropriate modification.

j. To another Federal agency, including but not limited to the Equal Employment Opportunity Commission and the Office of Special counsel to obtain advice regarding statutory, regulatory, policy, and other requirements related to reasonable accommodation.

k. To a Federal agency or entity authorized to procure assistive technologies and services in response to a request for reasonable accommodation.

l. To first aid and safety personnel if the individual's medical condition requires emergency treatment.

m. To another Federal agency or oversight body charged with evaluating NIGC's compliance with the laws, regulations, and policies governing reasonable accommodation requests.

n. To another Federal agency pursuant to a written agreement with NIGC to provide services (such as medical evaluations), when necessary, in support of reasonable accommodation decisions.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The records in this system of records are stored electronically on NIGC's local area network or with FedRAMPauthorized cloud service providers segregated from non-government traffic and data, with access limited to a small number of personnel. In addition, paper records are stored in locked file cabinets in access-restricted offices.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by name or other unique personal identifiers.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records in this system of records are maintained in accordance with GRS 2.3 and are destroyed three years after separation from the agency or all appeals are concluded, whichever is later, but longer retention is authorized if requested for business use.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Strict controls have been imposed to minimize the risk of compromising the information that is stored. Access to the paper and electronic records in this system of records is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

Individuals seeking notification of and access to their records in this system of records may submit a request in writing to the National Indian Gaming Commission, FOIA Office, 1849 C Street NW, Mail Stop # 1621 Washington, DC 20240, ATTN: NIGC Privacy Officer; or by emailing *foia_requests@NIGC.gov.* Individuals must furnish the following information for their records to be located: 1. Full name. 2. Signature. 3. The reason why the individual believes this system contains information about him/her. 4. The address to which the information should be sent. Individuals requesting access must also comply with NIGC's Privacy Act regulations regarding verification of identity and access to records (25 CFR 515).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of records about them contained in this system of records may do so by writing to the National Indian Gaming Commission, FOIA Office, 1849 C Street NW, Mail Stop # 1621 Washington, DC 20240, ATTN: NIGC Privacy Officer; or by emailing *foia_request@nigc.gov.* Requests for amendment of records should include the words ''PRIVACY ACT AMENDMENT REQUEST'' in capital letters at the top of the request letter or in the subject line of the email. Individuals must furnish the following information for their records to be located:

1. Full name.

2. Signature.

3. Precise identification of the information to be amended.

Individuals requesting amendment must also comply with NIGC's Privacy Act regulations regarding verification of identity and access to records (25 CFR 515). The agency procedures whereby an individual can be notified at his or her request how he or she can contest the content of any record pertaining to him or her in the system.

NOTIFICATION PROCEDURES:

See ''Record Access Procedures.''.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Any Privacy Act exemptions promulgated for the system.

HISTORY:

None.

Dated: December 7, 2021.

E. Sequoyah Simermeyer,

Chairman.

[FR Doc. 2021–26943 Filed 12–13–21; 8:45 am]

BILLING CODE 7565–01–P

INTERNATIONAL TRADE COMMISSION

Appointment of Individuals To Serve as Members of the Performance Review Board

AGENCY: United States International Trade Commission.

ACTION: Appointment of individuals to serve as members of Performance Review Board.

DATES: *Applicable Date:* June 29, 2020.

FOR FURTHER INFORMATION CONTACT: Eric Mozie, Director of Human Resources, or Ronald Johnson, U.S. International Trade Commission (202) 205–2651.

SUPPLEMENTARY INFORMATION: The Chair of the U.S. International Trade Commission has appointed the following individuals to serve on the Commission's Performance Review Board (PRB):

Chair of the PRB: Vice Chair Randolph Stayin
Vice-Chair of the PRB: Commissioner Amy Karpel
Member—John Ascienzo
Member—Dominic Bianchi
Member—Nannette Christ
Member—Jonathan Coleman
Member—Catherine DeFilippo
Member—Margaret Macdonald
Member—Stephen A. McLaughlin
Member—William Powers
Member—Keith Vaughn

This notice is published in the **Federal Register** pursuant to the requirement of 5 U.S.C. 4314(c)(4). Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

By order of the Chair.

Issued: December 8, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–26972 Filed 12–13–21; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–201–75 (Extension)]

Crystalline Silicon Photovoltaic Cells, Whether or Not Partially or Fully Assembled Into Other Products: Extension of Action

Determination

On the basis of the information in this investigation, the United States International Trade Commission (''Commission'') determines, pursuant to section 204(c) of the Trade Act of 1974 (''the Act'') (19 U.S.C. 2254(c)), that action under section 203 of the Act with respect to imports of crystalline silicon photovoltaic cells whether or not partially or fully assembled into other products (''CSPV products''), continues to be necessary to prevent or remedy serious injury and that there is evidence that the domestic industry is making a positive adjustment to import competition.

Background

Following receipt of a petition filed on behalf of Auxin Solar Inc. and Suniva, Inc., on August 2, 2021, including an amendment thereto filed on August 5, 2021, and a petition filed on August 4, 2021, on behalf of Hanwha Q CELLS USA, Inc., LG Electronics USA, Inc., and Mission Solar Energy, the Commission, effective August 6, 2021, instituted investigation No. TA–201–075 (Extension) under section 204(c) of the Act to determine whether the action taken by the President under section 203 of the Act with respect to CSPV products continues to be necessary to prevent or remedy serious injury and whether there is evidence that the domestic industry is making a positive adjustment to import competition.

Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing notice in the **Federal Register** on August 12, 2021 (86 FR 44403). In light of the restrictions on access to the Commission building due to the COVID–19 pandemic, the Commission conducted its hearing by video conference on November 3, 2021. All persons who requested the opportunity were permitted to participate.

The Commission transmitted its determination in this investigation to the President on December 8, 2021. The views of the Commission are contained in USITC Publication 5266 (December 2021), entitled *Crystalline Silicon Photovoltaic Cells (Whether or not Partially or Fully Assembled into Other Products): Extension of Action, Investigation No. TA–201–075 (Extension).*

By order of the Commission.

Issued: December 8, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–26974 Filed 12–13–21; 8:45 am]

BILLING CODE 7020–02–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (21–085)]

Privacy Act of 1974; System of Records

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Rescindment of a system of records notice.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 the National Aeronautics and Space Administration is giving notice that it proposes to cancel its Locator and Information Services Tracking System (LISTS)/GSFC 51LISTS that contains records used at Goddard Space Flight Center to assist the Security Office in issuing identification badges and coordinating clearance requests; to identify emergency contacts in case of an emergency involving to Center employees or guest workers; and to reach employees or guest workers if necessary during off hours.

DATES: Submit comments within 30 calendar days from the date of this publication. The changes will take effect at the end of that period, if no adverse comments are received.

ADDRESSES: Patti F. Stockman, Privacy Act Officer, Office of the Chief Information Officer, Mary W. Jackson NASA Headquarters, Washington, DC 20546–0001, (202) 358–4787, *NASA-PAOfficer@nasa.gov.*

FOR FURTHER INFORMATION CONTACT: NASA Privacy Act Officer, Patti F. Stockman, (202) 358–4787, *NASA-PAOfficer@nasa.gov.*

SUPPLEMENTARY INFORMATION: NASA will continue to maintain these records, but the Agency has determined that records of NASA 10LISTS are adequately covered by its Security Records System Notice, NASA 10SECR, last published at 15–068, 80 FR 193, pp. 60410–60411.

SYSTEM NAME AND NUMBER:

Locator and Information Services Tracking System (LISTS), GSFC 51LISTS.

HISTORY:

(07–081, 72 FR 189, pp. 55817—55833)

Cheryl Parker,

Federal Register Liaison Officer.

[FR Doc. 2021–27040 Filed 12–13–21; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE: (21–083)]

Privacy Act of 1974; System of Records

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, the National Aeronautics and Space Administration is issuing public notice of its proposal to significantly alter a previously noticed system of records Security Records System/NASA 10SECR. This notice incorporates locations and NASA standard routine uses previously published separately from, and cited by reference in, this and other NASA systems of records notices. This notice also adds a purpose statement, updates authorities, revises two NASA standard routine uses and adds three new ones, as set forth below under the caption **SUPPLEMENTARY INFORMATION**.

DATES: Submit comments within 30 calendar days from the date of this publication. The changes will take effect at the end of that period, if no adverse comments are received.

ADDRESSES: Patti F. Stockman, Privacy Act Officer, Office of the Chief Information Officer, National Aeronautics and Space Administration Headquarters, Washington, DC 20546–0001, (202) 358–4787, *NASA-PAOfficer@nasa.gov.*

FOR FURTHER INFORMATION CONTACT: NASA Privacy Act Officer, Patti F. Stockman, (202) 358–4787, *NASA-PAOfficer@nasa.gov.*

SUPPLEMENTARY INFORMATION: This system notice includes minor revisions to NASA's existing system of records notice to bring its format into compliance with OMB guidance and to update records access, notification, and contesting procedures consistent with NASA Privacy Act regulations. It incorporates in whole, as appropriate, information formerly published separately in the **Federal Register** as Appendix A, Location Numbers and Mailing Addresses of NASA Installations at which Records are Located, and Appendix B, Standard Routine Uses—NASA. This notice provides a new statement of PURPOSE OF THE SYSTEM; updates AUTHORITY FOR MAINTENANCE OF THE SYSTEM and adds an Executive Order; updates PHYSICAL SAFEGUARDS to reflect current information technology security protocols; and adds a new routine use that allows release to news media and the public under limited circumstances. The notice revises NASA's Standard Routine Use 5 to clarify conditions under which NASA will release records to a legal body for a proceeding involving NASA.. It revises NASA Standard Routine Use 6 and adds a new Standard Routine Use 9, both to enable the Agency to release records as necessary (1) to respond to a breach of the agency's personally identifiable information (PII) or (2) to assist another agency in response to a breach of its PII; and adds new Standard Routine Uses 10 and 11 allowing release to other agencies to aid their functions of inspection, audit or oversight as authorized by law.

Cheryl Parker,

Federal Register Liaison Officer.

SYSTEM NAME AND NUMBER:

Security Records System, NASA 10SECR.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

The centralized data system is located at George C. Marshall Space Flight Center (NASA), Marshall Space Flight Center, AL 35812–0001.

Records are also located at:

Mary W. Jackson NASA Headquarters (NASA), Washington, DC 20546–0001;

Ames Research Center (NASA), Moffett Field, CA 94035–1000;

Armstrong Flight Research Center (NASA), PO Box 273, Edwards, CA 93523–0273;

John H. Glenn Research Center at Lewis Field (NASA), 21000 Brookpark Road, Cleveland, OH 44135–3191;

Goddard Space Flight Center (NASA), Greenbelt, MD 20771–0001;

Lyndon B. Johnson Space Center (NASA), Houston, TX 77058–3696;

John F. Kennedy Space Center (NASA), Kennedy Space Center, FL 32899–0001;

Langley Research Center (NASA), Hampton, VA 23681–2199;

George C. Marshall Space Flight Center (NASA), Marshall Space Flight Center, AL 35812–0001;

John C. Stennis Space Center (NASA), Stennis Space Center, MS 39529–6000;

Michoud Assembly Facility (NASA), PO Box 29300, New Orleans, LA 70189; and

White Sands Test Facility (NASA), PO Drawer MM, Las Cruces, NM 88004–0020.

SYSTEM MANAGER(S):

System Manager: Deputy Assistant Administrator of the Office of Protective Services, NASA Headquarters (see System Location above for address).

Subsystem Managers: Chief of Security/Protective Services at each subsystem location at:

NASA Headquarters (see System Location above for address);

NASA Ames Research Center (see System Location above for address);

NASA Armstrong Flight Research Center (see System Location above for address);

NASA Glenn Research Center (see System Location above for address);

NASA Goddard Space Flight Center (see System Location above for address);

NASA Johnson Space Center (see System Location above for address);

NASA Kennedy Space Center (see System Location above for address);

NASA Langley Research Center (see System Location above for address);

NASA Marshall Space Flight Center (see System Location above for address);

NASA Stennis Space Center (see System Location above for address); and

Michoud Assembly Facility (see System Location above for address);

White Sands Test Facility (see System Location above for address).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 202–208—Bribery, graft, and conflicts of interest;

18 U.S.C. 371—Conspiracy to commit offense or to defraud United States;

18 U.S.C. 793–799—Espionage and Information Control Statutes;

18 U.S.C. 2151–2157—Sabotage statutes;

18 U.S.C. 3056—Powers, authorities, and duties of United States Secret Service;

40 U.S.C. 1441—Responsibilities regarding efficiency, security, and privacy of Federal computer systems;

42 U.S.C. 2011 *et seq.*—Development and control of atomic energy; congressional declaration of policy;

44 U.S.C. 3101—Records management by agency heads; general duties;

50 U.S.C.—McCarran Internal Security Act;

51 U.S.C. 20101—National and commercial space programs; short title;

Exec. Order No. 9397, as amended—Numbering system for Federal accounts relating to individual persons;

Exec. Order No. 10450—Security requirements for Government employment;

Exec. Order No. 10865—Safeguarding classified information within industry;

Exec. Order No. 12968, as amended—Access to classified information;

Exec. Order No. 13526, as amended—Classified national security information;

Executive Order 13587, Structural Reform to Improve the Security of

Classified Networks and Responsible Sharing and Safeguarding of Classified Information;

Pub. L. 81–733—Summary suspension of employment of civilian officers and employees;

Pub. L. 107–347—Federal Information Security Management Act 2002;

HSPD 12—Policy for a common identification standard for Federal employees and contractors;

14 CFR 1203(b)—National Aeronautics and Space Administration; information security program;

14 CFR 1213—Release of information to news and information media;

15 CFR pt. 744—Export administration regulations; control policy: end-user and end-use based;

22 CFR pt. 62—Department of State; exchange visitor program;

22 CFR 120–130—Foreign Relations Export Control;

41 CFR pt. 101—Federal property management regulations.

PURPOSE(S) OF THE SYSTEM:

The maintenance of these records supports NASA protective services and security operations as well as the establishment of identities, processing of access requests, and issuance of credentials in NASA's authoritative identity source.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on NASA (1) civil servant employees and applicants; (2) committee members; (3) consultants; (4) experts; (5) Resident Research Associates; (6) guest workers; (7) contractor employees; (8) detailees; (9) visitors; (10) correspondents (written and telephonic); (11) Faculty Fellows; (12) Intergovernmental Personnel Mobility Act (IPA) Employees, interns, Grantees, and Cooperative Employees; and (13) Remote Users of NASA Non-Public Information Technology Resources. This system also maintains information on all non-U.S. citizens, to include Lawful Permanent Residents seeking access to NASA facilities, resources, laboratories, contractor sites, Federally Funded Research and Development Centers or NASA sponsored events for unclassified purposes to include employees of NASA or NASA contractors; prospective NASA or NASA contractor employees; employees of other U.S. Government agencies or their contractors; foreign students at U.S. institutions; officials or other persons employed by foreign governments or other foreign institutions who may or may not be involved in cooperation with NASA under international agreements; foreign media representatives; and representatives or agents of foreign national governments seeking access to NASA facilities, to include high-level protocol visits; or international relations. While not considered 'individuals' under The Privacy Act, this system maintains records on international individuals when applicable.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel Security Records, Personal Identity Records including NASA visitor files, Emergency Data Records, Criminal Matters, Traffic Management Records, and Access Management Records. Specific records fields include, but are not limited to: Name, former names, date of birth, place of birth, social security number, home address, phone numbers, email address, citizenship, duty Center, traffic infraction, security violation, security incident, security violation discipline status, action taken, access permissions, area accessed, and date accessed.

RECORD SOURCE CATEGORIES:

Information is obtained from a variety of sources including from the employee, contractor, or applicant directly or via use of the Standard Form (SF) SF–85, SF–85P, or SF–86 and personal interviews; employers' and former employers' records; FBI criminal history records and other databases; financial institutions and credit reports; medical records and health care providers; educational institutions; interviews of witnesses such as neighbors, friends, coworkers, business associates, teachers, landlords, or family members; tax records; and other public records. Security violation information is obtained from a variety of sources, such as guard reports, security inspections, witnesses, supervisor's reports, audit reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Any disclosures of information will be compatible with the purpose for which the Agency collected the information. Under the following routine uses that are unique to this system of records, information in this system may be disclosed:

(1) To the Department of Justice (DOJ) when: (a) The agency or any component thereof; (b) any employee of the agency in his or her official capacity; (c) any employee of the agency in his or her individual capacity where agency or the DOJ has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by DOJ is therefore deemed by the agency to be for a purpose compatible with the purpose for which the agency collected the records.

(2) to a court or adjudicative body in a proceeding when: (a) The agency or any component thereof; (b) any employee of the agency in his or her official capacity; (c) any employee of the agency in his or her individual capacity where agency or the Department of Justice has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

(3) to an Agency in order to provide a basis for determining preliminary visa eligibility.

(4) to a staff member of the Executive Office of the President in response to an inquiry from the White House.

(5) to the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

(6) to agency contractors, grantees, or volunteers who have been engaged to assist the agency in the performance of a contract service, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform their activity. Recipients shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

(7) to other Federal agencies and relevant contractor facilities to determine eligibility of individuals to access classified National Security information.

(8) to any official investigative or judicial source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

(9) to the news media or the general public, factual information the disclosure of which would be in the public interest and which would not constitute an unwarranted invasion of personal privacy, consistent with Freedom of Information Act standards.

(10) to a Federal, State, or local agency, or other appropriate entities or individuals, or through established liaison channels to selected foreign governments, in order to enable an intelligence agency to carry out its responsibilities under the National Security Act of 1947 as amended, the CIA Act of 1949 as amended, Executive Order 12333 or any successor order, applicable national security directives, or classified implementing procedures approved by the Attorney General and promulgated pursuant to such statutes, orders or directives.

(11) in order to notify an employee's next-of-kin or contractor in the event of a mishap involving that employee or contractor.

(12) to notify another Federal agency when, or verify whether, a PIV card is valid.

(13) to provide relevant information to an internal or external organization or element thereof conducting audit activities of a NASA contractor or subcontractor.

(14) to a NASA contractor, subcontractor, grantee, or other Government organization information developed in an investigation or administrative inquiry concerning a violation of a Federal or state statute or regulation on the part of an officer or employee of the contractor, subcontractor, grantee, or other Government organization.

(15) to foreign governments or international organizations if required by treaties, international conventions, or executive agreements.

(16) to members of a NASA Advisory Committee or Committees and interagency boards charged with responsibilities pertaining to international visits and assignments and/or national security when authorized by the individual or to the extent the committee(s) is so authorized and such disclosure is required by law.

(18) to the following individuals for the purpose of providing information on traffic accidents, personal injuries, or the loss or damage of property: (a) Individuals involved in such incidents; (b) persons injured in such incidents; (c) owners of property damaged, lost or stolen in such incidents; and/or (d) these individuals' duly verified insurance companies, personal representatives, employers, and/or attorneys. The release of information under these circumstances should only occur when it will not: (a) Interfere with ongoing law enforcement proceedings, (b) risk the health or safety of an individual, or (c) reveal the identity of an informant or witness that has received an explicit assurance of confidentiality. Social security numbers should not be released under these circumstances unless the social security number belongs to the individual requester. The intent of this use is to facilitate information flow to parties who need the information to adjudicate a claim.

(19) to the Transportation Security Administration, with consent of the individual on whom the records are maintained, to establish eligibility for the TSA Pre✓ program.

(20) in accordance with NASA standard routine uses as set forth here. In addition, the following routine uses of information contained in SORs, subject to the Privacy Act of 1974, are standard for many NASA systems. They are cited by reference in the paragraph ''Routine uses of records maintained in the system, including categories of users and the purpose of such uses'' of the **Federal Register** Notice on those systems to which they apply. Any disclosures of information will be compatible with the purpose for which the Agency collected the information.

Standard Routine Use No. 1—In the event this system of records indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the SOR may be referred to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Standard Routine Use No. 2—A record from this SOR may be disclosed to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

Standard Routine Use No. 3— A record from this SOR may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Standard Routine Use No. 4—A record from this system may be disclosed to the Department of Justice including United States Attorney Offices, or other federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is relevant or necessary to the litigation or has an interest in such litigation when (a) the Agency, or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity where the Department of Justice or the Agency has agreed to represent the employee or former employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Agency is deemed by the Agency to be relevant and necessary to the litigation.

Standard Routine Use No. 5—A record from this SOR may be disclosed in an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when NASA determines that the records are relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

Standard Routine Use No. 6—A record from this SOR may be disclosed to appropriate agencies, entities, and persons when (1) NASA suspects or has confirmed that there has been a breach of the system of records; (2) NASA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, NASA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NASA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

Standard Routine Use No. 7—A record from this system may be disclosed to contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government, when necessary to accomplish an Agency function related to this system of records.

Standard Routine Use No. 8—A record from this system may be disclosed to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

Standard Routine Use No. 9—A record from this system may be disclosed to another Federal agency or Federal entity, when NASA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

Standard Routine Use No. 10—To the National Archives and Records Administration (NARA) or the General Services Administration (GSA) pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

Standard Routine Use 11—To another agency, or organization for purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are maintained electronically and in hard-copy documents.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved from the system by individual's name, file number, badge number, decal number, payroll number, Agency-specific unique personal identification code, and/or Social Security Number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Personnel Security Records are maintained in Agency files and destroyed in accordance with NASA Records Retention Schedules (NRRS), Schedule 1 Item 103. Foreign national files are maintained and destroyed in accordance with NRRS, Schedule 1 Item 35.

Personal Identity Records are maintained in Agency files and destroyed in accordance with NRRS, Schedule 1 Item 103. Visitor files are maintained and destroyed in accordance with NRRS, Schedule 1 Item 114.

Emergency Data Records are maintained and destroyed in accordance with NRRS 1, Item 100B.

Criminal Matter Records are maintained and destroyed in accordance with NRRS 1, Schedule 97.5, Items A and B.

Traffic Management Records are maintained and destroyed in accordance with NRRS 1, Schedule 97.5, Item C.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are maintained on secure NASA servers and protected in accordance with all Federal standards and those established in NASA regulations at 14 CFR 1212.605. Additionally, server and data management environments employ infrastructure encryption technologies both in data transmission and at rest on servers. Approved security plans are in place for information systems containing the records in accordance with the Federal Information Security Management Act of 2002 (FISMA) and OMB Circular A–130, Management of Federal Information Resources (OA–9999–M–MSF–2712, OA–9999–M–MSF–2707, IE–999–M–MSF–1654). Only authorized personnel requiring information in the official discharge of their duties are authorized access to records through approved access or authentication methods. Access to electronic records is achieved only by utilizing NASA agency managed authentication mechanisms. Non-electronic records are secured in access-controlled rooms with electronic security countermeasures and agency managed, PIV enabled, physical authentication mechanisms.

RECORD ACCESS PROCEDURES:

In accordance with 14 CFR part 1212, Privacy Act—NASA Regulations, information may be obtained by contacting in person or in writing the system or subsystem manager listed above at the location where the records are created and/or maintained. Requests must contain the identifying data concerning the requester, *e.g.,* first, middle and last name; date of birth; description and time periods of the records desired. NASA Regulations also address contesting contents and appealing initial determinations regarding records access.

Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information have been exempted by the Administrator under 5 U.S.C. 552a(k)(5) from the access provisions of the Act.

Personal Identity Records: Requests from individuals should be addressed to the cognizant system or subsystem manager listed above.

Emergency Data Records: Requests from individuals should be addressed to the cognizant system or subsystem manager listed above.

Criminal Matter Records compiled for civil or criminal law enforcement purposes have been exempted by the Administrator under 5 U.S.C. 552a(k)(2) from the access provision of the Act.

Traffic Management Records: Requests from individuals should be addressed to the cognizant system or subsystem manager listed above.

CONTESTING RECORD PROCEDURES:

In accordance with 14 CFR part 1212, Privacy Act—NASA Regulations, information may be obtained by contacting in person or in writing the system or subsystem manager listed above at the location where the records are created and/or maintained. Requests must contain the identifying data concerning the requester, *e.g.,* first, middle and last name; date of birth; description and time periods of the records desired. NASA Regulations also address contesting contents and appealing initial determinations regarding records access.

NOTIFICATION PROCEDURES:

In accordance with 14 CFR part 1212, Privacy Act—NASA Regulations, information may be obtained by contacting in person or in writing the system or subsystem manager listed above at the location where the records are created and/or maintained. Requests must contain the identifying data concerning the requester, *e.g.,* first, middle and last name; date of birth; description and time periods of the records desired. NASA Regulations also address contesting contents and appealing initial determinations regarding records access.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Personnel Security Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a confidential source, are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a(c)(3) relating to access to the disclosure accounting; (d) relating to access to the records; (e)(1) relating to the type of information maintained in the records; (e)(4)(G), (H) and (I) relating to publishing in the annual system

notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing agency rules for gaining access and making corrections. The determination to exempt the Personnel Security Records portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(k)(5) and Subpart 5 of the NASA regulations appearing in 14 CFR part 1212.

Criminal Matter Records to the extent they constitute investigatory material compiled for law enforcement purposes are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a(c)(3) relating to access to the disclosure accounting; (d) relating to access to the records; (e)(1) relating to the type of information maintained in the records; (e)(4)(G), (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing agency rules for gaining access and making corrections. The determination to exempt the Criminal Matter Records portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(k)(2) and subpart 5 of the NASA regulations appearing in 14 CFR part 1212.

Records subject to the provisions of 5 U.S.C. 552(b)(1) required by Executive Order to be kept secret in the interest of national defense or foreign policy are exempt from the following sections of the Privacy Act of 1974, 5 U.S.C. 552a:(c)(3) relating to access to the disclosure accounting; (d) relating to the access to the records; (e)(1) relating to the type of information maintained in the records; (e)(4)(G), (H) and (I) relating to publishing in the annual system notice information as to agency procedures for access and correction and information as to the categories of sources of records; and (f) relating to developing agency rules for gaining access and making corrections.

The determination to exempt this portion of the Security Records System has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(k)(1) and subpart 5 of the NASA regulations appearing in 14 CFR part 1212.

HISTORY:

(15–115, 80 FR 246, pp. 79937–79947)
(15–068, 80 FR 193, pp. 60410–60411)
(11–091, 76 FR 200, pp. 64112–64114)

[FR Doc. 2021–27042 Filed 12–13–21; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE: (21–084)]

Privacy Act of 1974; System of Records

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, the National Aeronautics and Space Administration is issuing public notice of its proposal to alter a previously noticed system of records NASA Health Information Management System/NASA 10HIMS. This adds a retention schedule and revises NASA standard routine uses, as set forth below under the caption **SUPPLEMENTARY INFORMATION**.

DATES: Submit comments within 30 calendar days from the date of this publication. The changes will take effect at the end of that period, if no adverse comments are received.

ADDRESSES: Patti F. Stockman, Privacy Act Officer, Office of the Chief Information Officer, National Aeronautics and Space Administration Headquarters, Washington, DC 20546–0001, (202) 358–4787, *NASA-PAOfficer@nasa.gov.*

FOR FURTHER INFORMATION CONTACT: NASA Privacy Act Officer, Patti F. Stockman, (202) 358–4787, *NASA-PAOfficer@nasa.gov.*

SUPPLEMENTARY INFORMATION: This notice adds a retention schedule that covers individual health records under Policies and Practices for Retention and Disposal of Records. It also revises Standard Routine Use 5 to clarify conditions under which NASA will release records to a legal body for a proceeding involving NASA.

Cheryl Parker,

Federal Register Liaison Officer.

SYSTEM NAME AND NUMBER:

Health Information Management System, NASA 10HIMS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records of Medical Clinics/Units and Environmental Health Offices are maintained at:

Mary W. Jackson NASA Headquarters, National Aeronautics and Space Administration (NASA), Washington, DC 20546–0001;

Ames Research Center (NASA), Moffett Field, CA 94035–1000;

Armstrong Flight Research Center (NASA), PO Box 273, Edwards, CA 93523–0273;

John H. Glenn Research Center at Lewis Field (NASA), 21000 Brookpark Road, Cleveland, OH 44135–3191;

Goddard Space Flight Center (NASA), Greenbelt, MD 20771–0001;

Lyndon B. Johnson Space Center (NASA), Houston, TX 77058–3696;

John F. Kennedy Space Center (NASA), Kennedy Space Center, FL 32899–0001;

Langley Research Center, (NASA), Hampton, VA 23681–2199;

George C. Marshall Space Flight Center (NASA), Marshall Space Flight Center, AL 35812–0001;

John C. Stennis Space Center (NASA), Stennis Space Center, MS 39529–6000;

Michoud Assembly Facility (NASA), PO Box 29300, New Orleans, LA 70189; and

Wallops Flight Facility (NASA), Wallops Island, VA 23337.

Electronic records are also hosted at:

CORITY Chicago Data Center, 341 Haynes Drive, in Wood Dale, Illinois 60191;

Salesforce Government Cloud in Ashburn, Virginia; and

Salesforce Disaster Recovery Center in Elk Grove Village, Illinois.

SYSTEM AND SUBSYSTEM MANAGER(S):

Chief Health and Medical Officer at NASA Headquarters (see System Location above for address).

Subsystem Managers:

Director Health and Medical Systems, Occupational Health at NASA Headquarters (see System Location above for address);

Chief, Space Medicine Division at NASA Johnson Space Center (see System Location above for address);

Occupational Health Contracting Officer Representatives at NASA Ames Research Center, (see System Location above for address);

NASA Armstrong Flight Research Center (see System Location above for address);

NASA Goddard Space Flight Center (see System Location above for address);

NASA Kennedy Space Center (see System Location above for address);

NASA Langley Research Center (see System Location above for address);

NASA Glenn Research Center (see System Location above for address);

NASA Marshall Space Flight Center (see System Location above for address);

NASA Jet Propulsion Laboratory (see System Location above for address);

NASA Stennis Space Center (see System Location above for address);

Michoud Assembly Facility (NASA) (see System Location above for address); and

Wallops Flight Facility (NASA) (see System Location above for address).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901—Health service programs;

51 U.S.C. 20113 (a)—Powers of the Administration in performance of functions to make and promulgate rules and regulations;

44 U.S.C. 3101—Records management by agency heads; general duties;

42 CFR part 2—Confidentiality of substance use disorder patient records.

PURPOSE(S) OF THE SYSTEM:

In order to ensure a healthy environment and workforce, information in this system of records is maintained on anyone receiving (1) exams for general wellness, (2) occupational clearances or determination of fitness for duty, (3) behavioral health assistance, (4) workplace surveillance for potential human exposure within NASA to communicable diseases and hazards such as noise and chemical exposure, repetitive motion, and (5) first aid or medical care for onsite illness or injuries through a NASA clinic outreach.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains information on (1) NASA employees and applicants; (2) employees from other agencies and military detailees working at NASA; (3) active or retired astronauts and active astronaut family members; (4) other space flight personnel on temporary or extended duty at NASA; (5) contractor personnel; (6) Space Flight Participants and those engaged in commercial use of NASA facilities, (7) civil service and contractor family members; and (8) visitors to NASA Centers who use clinics or ambulance services for emergency or first-aid treatment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system contain demographic data and private health information:

(1) Wellness records including but not limited to exams provided for continuing healthcare, documentation of immunizations and other outreach records.

(2) Fitness for duty and/or exposure exams/surveillance including but not limited to ergonomics, hazardous materials, radiation, noise, communicable diseases and other applicable longitudinal surveillance.

(3) Qualification records including the use of offsite or onsite exams to determine suitability for duties.

(4) Behavioral health and employee assistance records.

(5) Records of first aid, contingency response, or emergency care, including ambulance transportation.

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from individuals themselves, physicians, and previous medical records of individuals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Any disclosures of information will be compatible with the purpose for which the Agency collected the information. Under the following routine uses that are unique to this system of records, information in this system may be disclosed:

(1) to external medical professionals and independent entities to support internal and external reviews for purposes of medical quality assurance; (2) to private or other government health care providers for consultation, referral, or mission medical contingency support; (3) to the Office of Personnel Management, Occupational Safety and Health Administration, and other Federal or State agencies as required in accordance with the Federal agency's special program responsibilities; (4) to insurers for referrals or reimbursement; (5) to employers of non-NASA personnel in support of the Mission Critical Space Systems Personnel Reliability Program; (6) to international partners for mission support and continuity of care for their employees pursuant to NASA Space Act agreements; (7) to non-NASA personnel performing research, studies, or other activities through arrangements or agreements with NASA; (8) to the public of pre-space flight information having mission impact concerning an individual crewmember, limited to the crewmember's name and the fact that a medical condition exists; (9) to the public, limited to the crewmember's name and the fact that a medical condition exists, if a flight crewmember is, for medical reasons, unable to perform a scheduled public event following a space flight mission/landing; (10) to the public to advise of medical conditions arising from accidents, consistent with NASA regulations; and (12) in accordance with standard routine uses as set forth here.

In addition, the following routine uses of information contained in SORs are standard for many NASA systems and are compatible with the purpose for which the Agency collected the information.

Standard Routine Use No. 1—In the event this system of records indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the SOR may be referred to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Standard Routine Use No. 2—A record from this SOR may be disclosed to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

Standard Routine Use No. 3— A record from this SOR may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Standard Routine Use No. 4—A record from this system may be disclosed to the Department of Justice including United States Attorney Offices, or other federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when the record is relevant or necessary to the litigation or the agency has an interest in such litigation when (a) the Agency, or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity where the Department of Justice or the Agency has agreed to represent the employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Agency is deemed by the Agency to be relevant and necessary to the litigation.

Standard Routine Use No. 5—A record from this SOR may be disclosed in an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when NASA determines that the records are relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

Standard Routine Use No. 6—A record from this SOR may be disclosed to appropriate agencies, entities, and persons when (1) NASA suspects or has confirmed that there has been a breach of the system of records; (2) NASA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, NASA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NASA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

Standard Routine Use No. 7—A record from this system may be disclosed to contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government, when necessary to accomplish an Agency function related to this system of records.

Standard Routine Use No. 8—A record from this system may be disclosed to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

Standard Routine Use No. 9—A record from this system may be disclosed to another Federal agency or Federal entity, when NASA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in multiple formats including paper, digital, micrographic, photographic, and as medical recordings such as electrocardiograph tapes, x-rays and strip charts.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved from the system by the individual's name, date of birth, or unique assigned Numbers.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained in Agency files and destroyed in accordance with NASA Records Retention Schedule 1, Items 126 and 127, and NASA Records Retention Schedule 8, Item 57.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records are maintained on secure NASA servers and protected in accordance with all Federal standards and those established in NASA regulations at 14 CFR 1212.605. Additionally, server and data management environments employ infrastructure encryption technologies both in data transmission and at rest on servers. Electronic messages sent within and outside of the Agency that convey sensitive data are encrypted and transmitted by staff via pre-approved electronic encryption systems as required by NASA policy. Approved security plans are in place for information systems containing the records in accordance with the Federal Information Security Management Act of 2014 (FISMA) and OMB Circular A–130, Management of Federal Information Resources. Only authorized personnel requiring information in the official discharge of their duties are authorized access to records through approved access or authentication methods. Access to electronic records is achieved only from workstations within the NASA Intranet, or remotely via a secure Virtual Private Network (VPN) connection requiring two-factor token authentication using NASA-issued computers or via employee PIV badge authentication from NASA-issued computers. The CORITY Chicago Data Center and Salesforce Government Cloud and Disaster Recovery Center maintain documentation and verification of commensurate safeguards in accordance with FISMA, NASA Procedural Requirements (NPR) 2810.1A, and NASA ITS–HBK–2810.02–05. Non-electronic records are secured in locked rooms or files.

RECORD ACCESS PROCEDURES:

In accordance with 14 CFR part 1212, Privacy Act—NASA Regulations, information may be obtained by contacting in person or in writing the system or subsystem manager listed above at the location where the records are created and/or maintained. Requests must contain the identifying data concerning the requester, *e.g.,* first, middle and last name; date of birth; description and time periods of the records desired. NASA Regulations also address contesting contents and appealing initial determinations regarding records access.

CONTESTING RECORD PROCEDURES:

In accordance with 14 CFR part 1212, Privacy Act—NASA Regulations, information may be obtained by contacting in person or in writing the system or subsystem manager listed above at the location where the records are created and/or maintained. Requests must contain the identifying data concerning the requester, *e.g.,* first, middle and last name; date of birth; description and time periods of the records desired. NASA Regulations also address contesting contents and appealing initial determinations regarding records access.

NOTIFICATION PROCEDURES:

In accordance with 14 CFR part 1212, Privacy Act—NASA Regulations, information may be obtained by contacting in person or in writing the system or subsystem manager listed above at the location where the records are created and/or maintained. Requests must contain the identifying data concerning the requester, *e.g.,* first, middle and last name; date of birth; description and time periods of the records desired. NASA Regulations also address contesting contents and appealing initial determinations regarding records access.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

2020–27051, 85 FR 79224, pp. 79224–79227.

[FR Doc. 2021–27041 Filed 12–13–21; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–21–0020; NARA–2022–016]

Records Schedules; Administrative Correction Notice

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of administrative correction to records schedules.

SUMMARY: We are making the following administrative corrections to several

schedules of the Department of Treasury's Bureau of Fiscal Service. These cover its schedules for Support Records for Public Debt, Retail Securities Services, Summary Debt Accounting, Wholesale Security Services, and Government Agency Investment Services. An administrative correction addresses errors or oversights to temporary items in an approved records schedule. We are correcting errors and oversights in these schedules to make clear they are media-neutral.

DATES: Submit any comments by January 28, 2022.

ADDRESSES: You can find the records schedules subject to this proposed administrative correction on our website's Records Control Schedule page at *https://www.archives.gov/records-mgmt/rcs/schedules/index.html?dir=/departments/department-of-the-treasury/rg-0053.* You may submit comments by either of the following methods.

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- Due to COVID–19 building closures, we are currently temporarily not accepting comments by mail. However, if you are unable to comment via *regulations.gov*, you may contact *request.schedule@nara.gov* for instructions on submitting your comment. You must cite the control number of the schedule you wish to comment on.

FOR FURTHER INFORMATION CONTACT: Kimberly Keravuori, Regulatory and External Policy Program Manager, by email at *regulation_comments@nara.gov,* or by phone at 301.837.3151. For information about records schedules, contact Records Management Operations by email at *request.schedule@nara.gov* or by phone at 301.837.1799.

SUPPLEMENTARY INFORMATION: Administrative corrections are changes to temporary items on approved records schedules to address errors or oversights when the records were originally scheduled. The notice applies only to the changes described; not to other portions of a schedule. Submitting agencies cannot implement administrative corrections until the comment period ends and NARA approves the changes.

This administrative correction should be read in conjunction with the previously approved records schedules N1–053–06–04, Bureau of Fiscal Service, Support Records for Public Debt; N1–053–06–05, Bureau of Fiscal Service, Retail Securities Services; N1–053–06–06, Bureau of Fiscal Service, Summary Debt Accounting; N1–053–06–07, Bureau of Fiscal Service, Wholesale Security Services; and N1–053–06–08, Bureau of Fiscal Service, Government Agency Investment Services. You can find these schedules on the Records Control Schedule page at *https://www.archives.gov/records-mgmt/rcs/schedules/index.html?dir=/departments/department-of-the-treasury/rg-0053.*

We are making an administrative correction to the schedules to clearly indicate that all temporary items on the schedules are media-neutral items. These schedules were prepared and approved at a time of transition when media-neutral status was not as clearly noted on records schedules as it later came to be. We have reviewed the administrative record and concluded that these schedules were intended to be media-neutral, and that when they were received and evaluated by NARA they were understood to be media-neutral. Therefore, we are modifying the schedules to make this status clear in the body of the schedules.

Making these schedule items media-neutral means the schedule instructions and retention periods can be applied to the described kinds of records regardless of an individual record's medium (for example, hard-copy, analog, or digital). We will line out all references to ''hard copy'' that were erroneously included in the temporary item descriptions, and add a statement on the schedule that it is a media-neutral schedule. See *https://www.archives.gov/records-mgmt/faqs/media-neutral.html* for more information on media-neutral schedules.

Laurence Brewer,

Chief Records Officer for the U.S. Government.

[FR Doc. 2021–26953 Filed 12–13–21; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Alan T. Waterman Award Committee; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

NAME AND COMMITTEE CODE: Alan T. Waterman Award Committee (#1172).

DATE AND TIME: February 1, 2022, 1:00 p.m. to 6:00 p.m.

PLACE: NSF, 2415 Eisenhower Avenue, Alexandria, VA 22314 | Virtual.

TYPE OF MEETING: Closed.

CONTACT PERSON: Gayle Pugh Lev, Program Manager, OD/OIA, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; (703) 292–9449.

PURPOSE OF MEETING: Virtual meeting to provide advice and recommendations in the selection of the Alan T. Waterman Award recipient.

AGENDA: To review and evaluate nominations as part of the selection process for awards.

REASON FOR CLOSING: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are exempt under 5 U.S.C. 552b(c), (6) of the Government in the Sunshine Act.

Dated: December 9, 2021.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2021–26977 Filed 12–13–21; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board's (NSB) Committee on Strategy hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business pursuant to the National Science Foundation Act and the Government in the Sunshine Act.

TIME AND DATE: Wednesday, December 15, 2021, from 4:00–5:00 p.m. EST.

PLACE: This meeting will be held by teleconference through the National Science Foundation.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The agenda is: Chair's remarks; Approval of prior meeting minutes; Presentation on NSF's International Science Strategies and its proposed FY 2023 budget.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: Chris Blair, 703/292–7000. To listen to this teleconference, members of the public must send an email to *nationalsciencebrd@nsf.gov* at least 24 hours prior to the teleconference. The National Science Board Office will send requesters a toll-free dial-in number. Meeting information and updates may be found at the National Science Board website at *www.nsf.gov/nsb.*

Chris Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2021–27071 Filed 12–10–21; 11:15 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0162]

Safety Review of Light-Water Power-Reactor Construction Permit Applications

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft interim staff guidance; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is soliciting public comment on its draft interim staff guidance (ISG), ''Safety Review of Light-Water Power-Reactor Construction Permit Applications.'' The NRC staff is preparing for the review of construction permit applications. The purpose of this ISG is to clarify existing guidance and to assist the NRC staff in determining whether an application to construct a light-water power-reactor facility meets the minimum requirements to issue a construction permit.

DATES: Submit comments by January 28, 2022. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal Rulemaking website:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0162. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Carolyn Lauron, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–2736, email: *Carolyn.Lauron@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0162 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0162.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The draft ISG for the ''Safety Review of Light-Water Power-Reactor Construction Permit Applications'' is available in ADAMS under Accession No. ML21165A157.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2021–0162 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

The NRC anticipates the submission of power-reactor construction permit (CP) applications within the next few years based on preapplication engagement initiated by several prospective applicants. The review of these applications falls within the two-step licensing process under Part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities,'' and involves the issuance of a CP before an operating license (OL). The NRC last issued a power-reactor CP in the 1970s. Most recently, the NRC issued combined construction and operating licenses (combined licenses (COLs)) for power reactors through the one-step licensing process under 10 CFR part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants,'' using the guidance in NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition'' (*https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0800/cover/index.html*); and Regulatory Guide (RG) 1.206, ''Combined License Applications for Nuclear Power Plants (LWR Edition),'' issued June 2007 (ADAMS Package Accession No. ML070720184). The NRC has periodically updated some of the standard review plan (SRP) guidance and issued Revision 1 to RG 1.206, ''Applications for Nuclear Power Plants,'' in October 2018 (ML18131A181).

The licensing process under 10 CFR part 50 allows an applicant to begin construction with preliminary design information instead of the final design required for a COL under 10 CFR part 52. Although the two-step licensing process provides flexibility and allows a more limited safety review before construction, the design has less finality before the applicant commits to construction of the facility. The final safety analysis report (FSAR) submitted with the OL application should describe in detail the final design of the facility as constructed; identify the changes from the criteria, design, and bases in the CP preliminary safety analysis report (PSAR); and discuss the bases for, and safety significance of, the changes from the PSAR. Before issuing an OL, the NRC staff will review the applicant's final design in the FSAR to determine whether all the Commission's safety requirements have been met.

The SRP contains the NRC staff review guidance for light-water reactor applications submitted under 10 CFR part 50 or 10 CFR part 52. In addition to the CP review guidance in the SRP, RG 1.70, ''Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants: LWR Edition,'' Revision 3, issued November 1978 (ADAMS Package Accession No. ML011340122), offers some insights on the level of detail that is required for the PSAR in support of the CP application, but these insights may be limited to the degree that the guidance does not account for subsequent requirements, NRC technical positions, or advances in technical knowledge. RG 1.206 provides guidance for 10 CFR part 52 applications, including for early site permits and COLs, and includes insights on the level of detail needed for final design information if the CP applicant chooses to provide such information. The draft ISG discusses the use of these guidance documents and supplements the guidance in the SRP.

The NRC recently issued CPs for two nonpower production and utilization facilities—SHINE Medical Technologies, Inc., and Northwest Medical Isotopes, LLC. Some of the lessons learned from these reviews are applicable to the review of power-reactor CP applications, as discussed in the draft ISG. The draft ISG also discusses other issues pertinent to the safety review of CP applications for light-water power reactors, including the benefits accruing from preapplication engagement, the relationship between the CP and OL reviews, the NRC's approach for reviewing applications incorporating prior NRC approvals, the potential effect of ongoing regulatory activities on CP reviews, and licensing requirements for source, byproduct, and special nuclear material.

Dated: December 9, 2021.

For the Nuclear Regulatory Commission.

Brian W. Smith,

Director, Division of New and Renewed Licenses, Office of Nuclear Reactor Regulation.

[FR Doc. 2021–27035 Filed 12–13–21; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–089 and 50–163; NRC–2021–0196]

Termination of Operating Licenses for the General Atomics TRIGA Reactor Facility

AGENCY: Nuclear Regulatory Commission.

ACTION: License termination; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is providing notice of the termination of Facility Operating License No. R–38 and Facility Operating License No. R–67 for the General Atomics (GA; the licensee) TRIGA Reactor Facility in San Diego, California, where the Mark I and Mark F non power research reactors are located. The NRC has terminated the licenses for the decommissioned GA TRIGA Reactor Facility and has released the site for unrestricted use.

DATES: Notice of termination of Facility Operating License No. R–38 and Facility Operating License No. R–67 was issued on December 14, 2021.

ADDRESSES: Please refer to Docket ID NRC–2021–0196 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0196. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* For the convenience of the reader, the ADAMS accession numbers are provided in a table in the ''Availability of Documents'' section of this document.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays

FOR FURTHER INFORMATION CONTACT: Marlayna Doell, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3178; email: *Marlayna.Doell@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The GA TRIGA Reactor Facility in San Diego, California, is located on the Torrey Pines Mesa within the larger General Atomics campus. The TRIGA Mark I was the initial prototype TRIGA reactor, achieved initial criticality on May 3, 1958, and was in continuous operation until late 1997. On October 29, 1997, the TRIGA Mark I license (Facility Operating License No. R–38) was amended to possession only. The TRIGA Mark F achieved initial criticality on July 2, 1960 and was in continuous operation until March 22, 1995. The TRIGA Mark F license (Facility Operating License No. R–67) was amended to possession only in 1995. In 2010, all irradiated fuel elements from the TRIGA reactors located on the Torrey Pines Mesa were shipped to an authorized off-site storage facility at the Idaho National Laboratory.

II. Discussion

By letter dated April 18, 1997, as supplemented by letters dated November 20, 1998, January 28 and 29, February 3, April 22, May 3 and 12, and June 15, 16, and 22, 1999, GA submitted a request to the NRC to approve the TRIGA Reactor Facility Decommissioning Plan (DP). The NRC approved the GA DP by Amendment No. 36 to Facility Operating License No. R–38 and Amendment No. 45 to Facility Operating License No. R–67, dated August 12, 1999.

In February 2020, GA submitted Revision 2 of the ''TRIGA Reactor Facility Final Status Survey Plan'', which the NRC staff determined was consistent with the guidance and methodology in NUREG–1575, ''Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM),'' and NUREG–1757, ''Consolidated Decommissioning Guidance.'' The licensee's decommissioning activities included decontamination, dismantlement, and demolition of

various systems, structures, and components followed by MARSSIM-based final status surveys (FSS).

The FSS was performed to demonstrate that the residual radioactivity remaining at the GA TRIGA Reactor Facility site satisfies the NRC's release criteria in section 20.1402 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Radiological criteria for unrestricted use,'' which are (1) an annual dose limit of less than 25 millirem per year Total Effective Dose Equivalent to an average member of the critical group (*i.e.,* a member of the public) and (2) the residual radioactivity has been reduced to levels that are as low as reasonably achievable.

By letter dated December 14, 2020, GA submitted the FSS Report for the TRIGA Reactor Facility and requested the termination of Facility Operating License No. R–38 and Facility Operating License No. R–67. The NRC staff reviewed the FSS Report, which states that the criteria for license termination set forth in the GA licenses, and as established in the previously submitted DP and FSS Plan, have been satisfied. Supplemental information was provided in emails from the licensee dated February 26 and May 18, 2021, which addressed additional questions and items requiring clarification that were provided to the licensee by the NRC staff during the review of the FSS Report.

The GA FSS Report and request to terminate the TRIGA Reactor Facility licenses, the NRC evaluation supporting the license termination decision, and a collection of decommissioning and license termination information, including the GA DP and associated NRC safety evaluation, as well as Revision 1 of the GA FSS Plan, are provided in the ''Availability of Documents'' table in this notice.

Throughout the decommissioning process, inspectors from the NRC's Region IV office in Arlington, Texas, conducted routine safety inspections at the GA TRIGA Reactor Facility, as documented in the following NRC Inspection Reports (IRs), which took place during and after removal of the TRIGA irradiated fuel elements in 2010: IR 50–163/2010–01; 50–89/2010–01, IR 50–163/2012–01; 50–89/2012–01, IR 50–163/2013–01; 50–89/2013–01, IR 50–163/2015–01; 50–89/2015–01, IR 50–163/2018–01; 50–89/2018–01, IR 50–163/2019–01; 50–89/2019–01, and IR 50–163/2020–01; 50–89/2020–01.

The inspections consisted of observations by the NRC inspectors, interviews with GA and contractor personnel, confirmatory measurements, collection of soil samples, and a review of decommissioning work plans and work instructions. The NRC inspections also verified that radioactive waste associated with the decommissioning project had been appropriately shipped offsite and that the decommissioning and FSS activities were being conducted safely and in accordance with the appropriate regulatory requirements, licensee commitments, and the NRC-approved GA DP. No health or safety concerns were identified during the NRC inspections.

During the period of August 5–8, 2019, the Oak Ridge Institute for Science and Education (ORISE) performed confirmatory surveys in support of the GA FSS and decommissioning activities, which included gamma surface scans, gamma direct measurements, alpha-plus-beta scans, alpha-plus-beta direct measurements, smear sampling, and soil/volumetric sampling within Building G21 and associated land areas, as applicable. The areas investigated included the following survey units: Mark I reactor pit, Mark F reactor pit and canal, Mark I reactor room (floor and lower walls), Mark F reactor room (floors and lower walls), the soil lab, mezzanine 1, mezzanine 2, TRIGA waste yard, TRIGA front yard, TRIGA back yard, and room 112, as well as a small section of the TRIGA Reactor Facility roof. ORISE provided the results of the confirmatory survey in a report dated November 26, 2019. The ORISE survey data support the conclusion that the residual radioactivity levels satisfy the criteria for license termination set forth in the GA licenses, and as established in the previously submitted DP and FSS Plan.

Based on observations during the NRC inspections and ORISE confirmatory survey activities, decommissioning activities have been carried out by GA in accordance with the approved TRIGA Reactor Facility DP. Additionally, the NRC staff evaluated the licensee's FSS Report and the results of the independent confirmatory survey conducted by ORISE. Based on the NRC staff's evaluation of the GA FSS Report sampling and scanning data, NRC staff inspections, ORISE confirmatory analyses, and comparison to the TRIGA Reactor Facility DP and FSS Plan criteria, the NRC staff concludes that the GA TRIGA Reactor Facility decommissioning has been performed and completed in accordance with the approved DP, and that the facility and site are suitable for unrestricted release in accordance with the radiological criteria for license termination in 10 CFR part 20, subpart E, ''Radiological Criteria for License Termination.''

Therefore, pursuant to 10 CFR 50.82(b)(6), Facility Operating License No. R–38 and Facility Operating License No. R–67 are terminated.

III. Availability of Documents

The documents identified in the following table are available to interested persons through ADAMS, as indicated.

Document	ADAMS accession No.
GA Final Status Survey Report and Request to Terminate License Nos. R–38 and R–67	ML21012A268 (Package).
NRC Approval of License Termination Based on the Final Status Survey Report and Supporting Information	ML21281A171
GA TRIGA Reactor Facility Final Status Survey Plan, Revision 2	ML20049A039
Supplemental Information Related to the License Termination Request	ML21246A250 (Package).
NUREG–1575, ''Multi Agency Radiation Survey and Site Investigation Manual (MARSSIM)''	ML003761445
NUREG–1757, ''Consolidated Decommissioning Guidance,'' Volume 1	ML063000243
NUREG–1757, ''Consolidated Decommissioning Guidance,'' Volume 2	ML063000252
IR 50 163/2010–01; 50 89/2010–01	ML103060034
IR 50 163/2012–01; 50 89/2012 01	ML12321A127
IR 50 163/2013–01; 50 89/2013–01	ML13338A864
IR 50 163/2015–01; 50 89/2015–01	ML15328A527
IR 50 163/2018–01; 50 89/2018–01	ML18319A137
IR 50 163/2019–01; 50 89/2019–01	ML19247C512
IR 50 163/2020–01; 50 89/2020–01	ML20090B701
Independent Confirmatory Survey Summary and Results for the General Atomics TRIGA Reactor Facility	ML19337D382

Dated: December 8, 2021.

For the Nuclear Regulatory Commission.

Bruce A. Watson,

Chief, Reactor Decommissioning Branch, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2021–26961 Filed 12–13–21; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–04858; NRC–2021–0148]

Dow Corning Corporation; Building DC–3

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering approval of an amendment to Materials License 21–08362–08, issued on June 28, 2021 and held by Dow Corning Corporation, to approve the Decommissioning Plan for Building DC–3 and its adjacent areas, located at 2200 West Salzburg Road in Auburn, Michigan. If approved, the licensee would be allowed to implement the proposed Decommissioning Plan for decontamination and remediation of the affected areas of the DC–3 Building site, in order to meet the NRC's criteria for unrestricted use. As part of its review, the NRC conducted an assessment of the environmental impacts of the proposed decommissioning action. This notice provides details regarding the NRC's environmental assessment (EA) and the corresponding finding of no significant impact (FONSI).

DATES: The EA and FONSI referenced in this document are available on December 14, 2021.

ADDRESSES: Please refer to Docket ID NRC–2021–0148 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0148. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays

FOR FURTHER INFORMATION CONTACT: Michael M. LaFranzo, Region III, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 630–829–9865, email: *Michael.LaFranzo@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering issuance of an amendment to Materials License 21–08362–08, issued to Dow Corning Corporation for operation of the Building DC–3, located at 2200 West Salzburg Road, in Bay County, Michigan. The amendment would approve the proposed Decommissioning Plan for the decontamination and remediation of the affected areas of the DC–3 Building site, to meet the NRC's criteria for unrestricted use. Therefore, as required by Section 51.30 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Environmental assessment,'' the NRC performed an EA. Based on the results of the EA, the NRC has determined not to prepare an environmental impact statement (EIS) for the Decommissioning Plan Approval and is issuing a FONSI.

II. Environmental Assessment

Description of the Proposed Action

The proposed action is to amend Materials License 21–08362–08 to incorporate the appropriate and acceptable derived concentration guideline levels into the license and to decontaminate and remediate the affected areas of the DC–3 Building sufficiently to enable unrestricted use of the facility. The proposed action will allow Dow Corning Corporation to decommission the DC–3 building in accordance with NRC regulations.

The proposed action is in accordance with the licensee's application dated July 24, 2018, as supplemented by letter(s) dated September 10, 2018 and April 22, 2019.

Need for the Proposed Action

The amendment is needed so the licensee can decommission the DC–3 Building site in accordance with 10 CFR 30.36, ''Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas,'' and therefore reduce the residual radioactivity to a level that permits release of the facility for unrestricted use.

Environmental Impacts of the Proposed Action

The NRC staff has assessed the potential environmental impacts from Dow Corning Corporation decommissioning activities. The NRC staff has assessed the impacts of the proposed action on land use, historical and cultural resources; visual and scenic resources; water resources; climatology, meteorology and air quality; socioeconomics; noise; ecology; geology and soil; traffic and transportation; public and occupational health and safety; and waste management, and the approval of the proposed action would not result in an increased radiological risk to public health or the environment.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). With respect to the DC–3 Building site, the no-action alternative would mean that the licensee would not be allowed to conduct decommissioning work.

The no-action alternative is not acceptable because it would put the licensee in violation of the NRC's Timeliness Rule regulations specified in 10 CFR 30.36. The Timeliness Rule requires licensees to decommission and release a licensed site, building, or portions thereof, for unrestricted use in a timely manner when licensed activities have permanently ceased.

Agencies and Persons Consulted

On April 28, 2021, the NRC staff consulted with Michigan Department of Environment, Great Lakes, and Energy, regarding the environmental impact of

the proposed action. The state official concurred with the EA and FONSI.

III. Finding of No Significant Impact

The NRC staff determined that the proposed action complies with the requirements of Subpart E of 10 CFR part 20, ''Radiological Criteria for License Termination.'' Decommissioning of the site to the proposed derived concentration guideline levels will result in reduced residual contamination levels in the facility, enabling release of the facility for unrestricted use. No significant radiologically contaminated effluents are expected during the decommissioning. Occupational doses to decommissioning workers are expected to be low and well within the limits of 10 CFR part 20. No radiation exposure to any member of the public is expected, and public exposure will therefore also be less than the applicable public exposure limits of 10 CFR part 20.

On the basis of the EA, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an EIS for the proposed action and a FONSI is appropriate.

IV. Availability of Documents

The documents identified in the following table are available to interested persons through ADAMS, as indicated.

Document	ADAMS accession No.
Dow Corning Corporation—EA and FONSI, dated October 27, 2021	ML21300A167
Decommissioning Notification for Dow Corning, dated July 24, 2018	ML18228A804
The Dow Corning Corporation Notification to Cease Principal Activities, dated September 10, 2018.	ML18253A233
Dow Corning Corporation/The Dow Chemical Company re Decommissioning, dated April 22, 2019.	ML19114A482 (non-public, withheld pursuant to 10 CFR § 2.390).
Dow Corning Corporation, Licensee Response to NRC request for Information, dated April 14, 2020.	ML20105A239 (non-public, withheld pursuant to 10 CFR § 2.390).
Dow Corning Corporation—Licensee Response to NRC Request for Information for Decommissioning Plan, dated February 28, 2012.	ML21082A187
Dow Corning Corporation—Licensee Response to NRC Request for Information for Decommissioning Plan, dated February 15, 2021.	ML21049A026

Dated: December 8, 2021.

For the Nuclear Regulatory Commission.

Michael M. LaFranzo,

Senior Health Physicist, Materials Control, ISFSI and Decommissioning, Division of Nuclear Materials Safety, Region III.

[FR Doc. 2021–26962 Filed 12–13–21; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2022–30 and CP2022–33]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 16, 2021.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2022–30 and CP2022–33; *Filing Title:* USPS Request to Add Priority Mail Contract 733 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 8, 2021; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* December 16, 2021.

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2021–27002 Filed 12–13–21; 8:45 am]

BILLING CODE 7710–FW–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

U.S. Global Change Research Program (USGCRP) Prospectus for its National Global Change Research Plan 2022–2031; Correction

AGENCY: Office of Science and Technology Policy (OSTP).

ACTION: Notice; correction.

SUMMARY: The Office of Science and Technology Policy published a document in the **Federal Register** of December 6, 2021, concerning request for comments on a prospectus for the National Global Change Research Plan. The document did not include necessary web links.

FOR FURTHER INFORMATION CONTACT: Direct technical questions to David Dokken (Senior Program Officer) at *ddokken@usgcrp.gov* or 202–419–3473. Process issues or concerns should be addressed to Michael Kuperberg (USGCRP Executive Director) at *mkuperberg@usgcrp.gov.*

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of December 6, 2021, in FR Doc. 2021–26218, on page 69106, in the third column, add the following information as a final paragraph in **SUPPLEMENTARY INFORMATION:**

To download the prospectus and submit comments, access the USGCRP Review and Comment (R&C) System: *https://review.globalchange.gov/.*

To access background information described above, please use the following web links:

- *USGCRP Review and Comment (R&C) System: https://review.globalchange.gov/*
- *USGCRP Website: https://www.globalchange.gov/*
- *Global Change Research Act (GCRA: Sec 104, Pub. L. 101–606): https://www.globalchange.gov/about/legal-mandate*
- *USGCRP Strategic Planning Context: https://www.globalchange.gov/engage/process-products/strategic-planning*
- *National Global Change Research Plan 2012–2021: https://downloads.globalchange.gov/strategic-plan/2012/usgcrp-strategic-plan-2012.pdf*
- *Global Change Research Needs and Opportunities for 2022–2031 (NASEM): https://www.nap.edu/read/26055/chapter/1*
- *Subcommittee on Global Change Research (SGCR): https://www.globalchange.gov/about/organization-leadership*
- *National Science and Technology Council (NSTC): https://www.whitehouse.gov/ostp/nstc/*

Dated: December 9, 2021.

Stacy Murphy,

Operations Manager.

[FR Doc. 2021–27037 Filed 12–13–21; 8:45 am]

BILLING CODE P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Orbital Debris Research and Development Interagency Working Group Listening Sessions

Correction

In notice document 2021–26729, appearing on pages 70547–70548 in the issue of Friday, December 10, 2021, make the following correction:

On page 70547, in the second column, in the **ADDRESSES** section, the fourth through seventh lines are corrected to read as follows:

1. Debris Remediation: *https://ida-org.zoomgov.com/meeting/register/vJIsc-uupzgiGLyz7dJnKBzd5TYtWSIvFEY.*

2. Debris Mitigation: *https://ida-org.zoomgov.com/meeting/register/vJIsdu2pqDsrHtcrkQItFEkScORq00AoDA4.*

[FR Doc. C1–2021–26729 Filed 12–13–21; 8:45 am]

BILLING CODE 0099–10–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93739; File No. SR–BX–2021–053]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend BX's Pricing Schedule at Options 7, Section 1, General Provisions

December 8, 2021.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on December 1, 2021, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend BX's Pricing Schedule at Options 7, Section 1, General Provisions.

While the changes proposed herein are effective upon filing, the Exchange has designated the amendments become operative on December 1, 2021.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/bx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

BX proposes to amend its Pricing Schedule at Options 7, Section 1, General Provisions. Specifically, BX proposes to amend the way an Exchange Participant indicates its participation in the Affiliated Entity Program. Specifically, the Exchange proposes to amend the description of ''Affiliated Entity'' within Options 7, Section 1, General Provisions. Currently, the term ''Affiliated Entity'' is described as,

> a relationship between an Appointed MM and an Appointed OFP for purposes of aggregating eligible volume for pricing in Options 7, Section 2(1) for which a volume threshold or volume percentage is required to qualify for higher rebates or lower fees. BX Options Market Makers and OFPs are required to send an email to the Exchange to

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

appoint their counterpart, at least 3 business days prior to the last day of the month to qualify for the next month. The Exchange will acknowledge receipt of the emails and specify the date the Affiliated Entity is eligible for applicable pricing in Options 7, Section 2(1). Each Affiliated Entity relationship will commence on the 1st of a month and may not be terminated prior to the end of any month. An Affiliated Entity relationship will terminate after a one (1) year period, unless either party terminates earlier in writing by sending an email to the Exchange at least 3 business days prior to the last day of the month to terminate for the next month. Affiliated Entity relationships must be renewed annually. Participants under Common Ownership may not qualify as a counterparty comprising an Affiliated Entity. Each Participant may qualify for only one (1) Affiliated Entity relationship at any given time.

Today, Participants are required to annually renew their Affiliate Entity relationship at the end of one year if they desire to continue the relationship. The parties must both send an email to the Exchange to avoid termination of the relationship, provided the relationship was not terminated earlier in the year. The Exchange believes that this process is burdensome for Participants that desire to remain in the program. The consequence of not renewing is termination. The Exchange desires to remove the administrative burden associated with the requirement to annually renew and instead provide that the Affiliated Entity relationship will automatically renew each month, unless otherwise terminated. The proposed new rule text would provide,

The term ''Affiliated Entity'' is a relationship between an Appointed MM and an Appointed OFP for purposes of aggregating eligible volume for pricing in Options 7, Section 2(1) for which a volume threshold or volume percentage is required to qualify for higher rebates or lower fees. BX Options Market Makers and OFPs are required to send an email to the Exchange to appoint their counterpart, at least 3 business days prior to the last day of the month to qualify for the next month. The Exchange will acknowledge receipt of the emails and specify the date the Affiliated Entity is eligible for applicable pricing in Options 7, Section 2(1). Each Affiliated Entity relationship will commence on the 1st of a month and may not be terminated prior to the end of any month. An Affiliated Entity relationship will automatically renew each month until or unless either party terminates earlier in writing by sending an email to the Exchange at least 3 business days prior to the last day of the month to terminate for the next month. Participants under Common Ownership may not qualify as a counterparty comprising an Affiliated Entity. Each Participant may qualify for only one (1) Affiliated Entity relationship at any given time.

As is the case today, parties to the Affiliated Entity relationship may decide to terminate the relationship during any month by sending an email to the Exchange at least 3 business days prior to the last day of the month to terminate for the next month. Cboe Exchange, Inc. (''Cboe'') has a similar automatic renewal process for its Appointed OFP and Appointed Market-Maker Program.[4] The Exchange believes that this amendment will streamline the workflow for Participants by not requiring Participants to renew each year to continue the affiliated relationship.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange's proposal to amend the way Exchange Participants indicate their participation in the Affiliated Entity Program is reasonable. Today, Participants are required to annually renew their Affiliated Entity relationship at the end of one year if they desire to continue the relationship. The parties must both send an email to the Exchange to avoid termination of the relationship, provided the relationship was not terminated earlier in the year. The Exchange believes that this process is burdensome for Participants that desire to remain in the program. The consequence of not renewing is termination of their participation in the program. The Exchange desires to remove the administrative burden associated with the requirement to annually renew and instead provide that the Affiliated Entity relationship will automatically renew each month, unless otherwise terminated. As is the case today, parties to the Affiliated Entity relationship may decide to terminate the relationship during any month by sending an email to the Exchange at least 3 business days prior to the last day of the month to terminate for the next month. Also, Cboe has a similar automatic renewal process for its Appointed OFP and Appointed Market-Maker Program.[7] The Exchange believes that this amendment will streamline the workflow for Participants by not requiring Participants to renew each year to continue the affiliated relationship.

The Exchange's proposal to amend the way Exchange Participants indicate their participation in the Affiliated Entity Program is equitable and not unfairly discriminatory. Today, any Participant may participate in the Affiliated Entity Program. The proposed changes would impact all Participants that voluntarily elect to participate in the Affiliated Entity Program in a uniform manner.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Inter-Market Competition

The proposal does not impose an undue burden on inter-market competition. Cboe has a similar automatic renewal process for its Appointed OFP and Appointed Market-

[4] *See* Cboe's Fees Schedule at footnote 23 ''A Market-Maker may designate an Order Flow Provider (''OFP'') as its ''Appointed OFP'' and an OFP may designate a Market-Maker to be its ''Appointed Market-Maker'' for purposes of qualifying for credits under AVP. In order to effectuate the appointment, the parties would need to submit the Appointed Affiliate Form to the Exchange by 3:00 p.m. CST on the first business day of the month in order to be eligible to qualify for credits under AVP for that month. The Exchange will recognize only one such designation for each party once every calendar month, which designation will automatically renew each month until or unless the Exchange receives an email from either party indicating that the appointment has been terminated. A Market-Maker that has both an Affiliate OFP and Appointed OFP will only qualify based upon the volume of its Appointed OFP. The volume of an OFP that has both an Affiliate Market-Maker and Appointed Market-Maker will only count towards qualifying the Appointed Market-Maker. Volume executed in open outcry is not eligible to receive a credit under AVP.''

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

[7] *See* Cboe's Fees Schedule at footnote 23 ''A Market-Maker may designate an Order Flow Provider (''OFP'') as its ''Appointed OFP'' and an OFP may designate a Market-Maker to be its ''Appointed Market-Maker'' for purposes of qualifying for credits under AVP. In order to effectuate the appointment, the parties would need to submit the Appointed Affiliate Form to the Exchange by 3:00 p.m. CST on the first business day of the month in order to be eligible to qualify for credits under AVP for that month. The Exchange will recognize only one such designation for each party once every calendar month, which designation will automatically renew each month until or unless the Exchange receives an email from either party indicating that the appointment has been terminated. A Market-Maker that has both an Affiliate OFP and Appointed OFP will only qualify based upon the volume of its Appointed OFP. The volume of an OFP that has both an Affiliate Market-Maker and Appointed Market-Maker will only count towards qualifying the Appointed Market-Maker. Volume executed in open outcry is not eligible to receive a credit under AVP.''

Maker Program [8] as proposed herein for the Affiliated Entity Program.

Intra-Market Competition

The Exchange's proposal to amend the way Exchange Participants indicate their participation in the Affiliated Entity Program does not impose an undue burden on competition. Today, any Participant may participate in an Affiliated Entity relationship. The proposed changes would impact all Participants that voluntarily elect to participate in the Affiliated Entity Program in a uniform manner.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2021–053 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2021–053. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2021–053, and should be submitted on or before January 4, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–26969 Filed 12–13–21; 8:45 am]

BILLING CODE 8011–01–P

[8] *Id.*

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34- 93733; File Nos. SR–MIAX–2021–41, SR–PEARL–2021–45]

Self-Regulatory Organizations; Miami International Securities Exchange LLC, MIAX PEARL, LLC; Notice of Withdrawal of Proposed Rule Changes to Amend the Fee Schedules To Adopt a Tiered-Pricing Structure for Certain Connectivity Fees

December 7, 2021.

On September 24, 2021, Miami International Securities Exchange LLC (''MIAX'') and MIAX PEARL, LLC (''MIAX Pearl'') (collectively, the ''Exchanges'') each filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change (File Numbers SR–MIAX–2021–41 and SR–PEARL–2021–45) to amend the MIAX Fee Schedule and MIAX Pearl Options Fee Schedule to adopt a tiered pricing structure for certain connectivity fees.

The proposed rule changes were immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[3] The proposed rule changes were published for comment in the **Federal Register** on October 4, 2021.[4] On November 22, 2021, the Commission temporarily suspended the proposed rule changes and instituted proceedings under Section 19(b)(2)(B) of the Act [5] to determine whether to approve or disapprove the proposed rule changes.[6] On December 1, 2021, the Exchanges withdrew the proposed rule changes (SR–MIAX–2021–41 and SR–PEARL–2021–45).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–26861 Filed 12–13–21; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A). A proposed rule change may take effect upon filing with the Commission if it is designated by the exchange as ''establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization.'' 15 U.S.C. 78s(b)(3)(A)(ii).

[4] *See* Securities Exchange Act Release Nos. 93165 (September 28, 2021), 86 FR 54750 (SR–MIAX–2021–41); 93162 (September 28, 2021), 86 FR 54739 (SR–PEARL–2021–45). Comments received on the proposed rule changes are available on the Commission's website at: *https://www.sec.gov/comments/sr-miax-2021-41/srmiax202141.htm* (SR–MIAX–2021–41); *https://www.sec.gov/comments/sr-pearl-2021-45/srpearl202145.htm* (SR–PEARL–2021–45).

[5] 15 U.S.C. 78s(b)(2)(B).

[6] *See* Securities Exchange Act Release No. 93639, 86 FR 67758 (November 29, 2021).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–298, OMB Control No. 3235–0337]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange

Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 17Ac2–2 and Form TA–2

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of the existing collection of information provided for in Rule 17Ac2–2 (17 CFR 240.17Ac2–2) and Form TA–2 under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act'').

Rule 17Ac2–2 and Form TA–2 under the Exchange Act require transfer agents to file an annual report of their business activities with the Commission. These reporting requirements are designed to ensure that all registered transfer agents are providing the Commission with sufficient information on an annual basis about the transfer agent community and to permit the Commission to effectively monitor business activities of transfer agents.

The amount of time needed to comply with the requirements of Rule 17Ac2–2 and Form TA–2 varies. Of the total 362 registered transfer agents, approximately 9.2% (or 33 registrants) would be required to complete only questions 1 through 3 and the signature section of Form TA–2, which the Commission estimates would take each registrant approximately 30 minutes, for a total burden of approximately 17 hours (33 × .5 hours). Approximately 26.5% of registrants (or 96 registrants) would be required to answer questions 1 through 5, question 11 and the signature section, which the Commission estimates would take approximately 1 hour and 30 minutes, for a total of approximately 144 hours (96 × 1.5 hours). Approximately 64.2% of the registrants (or 232 registrants) would be required to complete the entire Form TA–2, which the Commission estimates would take approximately 6 hours, for a total of approximately 1,392 hours (232 × 6 hours). The aggregate annual burden on all 362 registered transfer agents is thus approximately 1,553 hours (17 hours + 144 hours + 1,392 hours) and the average annual burden per transfer agent is approximately 4.29 hours (1,553 ÷ 362).

This rule does not involve the collection of confidential information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John R. Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: December 7, 2021.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–26854 Filed 12–13–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34435; 812–15233]

MassMutual Access Pine Point Fund, et al.

December 8, 2021.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(a)(2), 18(c) and 18(i) of the Act, and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of shares of beneficial interest with varying sales loads and to impose asset-based distribution and/or service fees.

APPLICANTS: MassMutual Access Pine Point Fund (the ''Initial Fund''), MML Investment Advisers, LLC (the ''Adviser'') and MML Distributors, LLC (the ''Distributor'').

FILING DATES: The application was filed on May 27, 2021, and amended on October 29, 2021, and December 8, 2021.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving Applicants with a copy of the request email. Hearing requests should be received by the Commission by 5:30 p.m. on December 29, 2021, and should be accompanied by proof of service on the Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Elizabeth J. Reza, *elizabeth.reza@ropesgray.com.*

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel, at (202) 551–6817, or Kaitlin C. Bottock, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Initial Fund is a Delaware statutory trust that is registered under the Act as a non-diversified, closed-end management investment company. The Initial Fund's investment objective will be to generate long-term capital appreciation, primarily through private equity investments.

2. The Adviser, a Delaware limited liability company, is registered as an investment adviser under the Investment Advisers Act of 1940, as amended (the ''Advisers Act''). The Adviser will serve as investment adviser to the Initial Fund.

3. The Distributor is a Connecticut limited liability company and is expected to be the Fund's principal underwriter.

4. Applicants seek an order to permit the Initial Fund to issue multiple classes of common shares with varying sales loads and to impose asset-based distribution and/or service fees and early repurchase fees.

5. Applicants request that the order also apply to any continuously offered registered closed-end management investment company that has been

previously organized or that may be organized in the future for which the Adviser, the Distributor, or any entity controlling, controlled by, or under common control with the Adviser or the Distributor, or any successor in interest to any such entity,[1] acts as investment adviser or principal underwriter, and which provides periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Securities Exchange Act of 1934 (each, a ''Future Fund'' and together with the Initial Fund, the ''Funds'').[2]

6. The Initial Fund will initially will register three classes of shares, ''Class 1 Shares'', ''Class 2 Shares'' and ''Class 3 Shares.'' Shares of the Initial Fund will be sold only to persons who are ''accredited investors,'' as defined in Rule 501(a) of Regulation D under the Securities Act of 1933. The Funds will offer their Shares continuously at a price based on net asset value. Shares of the Funds will not be listed on any securities exchange nor quoted on any quotation medium. The Funds do not expect there to be a secondary trading market for their shares.

7. Applicants state that if the Initial Fund's initial registration statement is declared effective prior to receipt of the requested relief, the Initial Fund will only offer one class of shares, Class 1 Shares, until receipt of the requested relief. Each of Class 1 Shares, Class 2 Shares and Class 3 Shares will have its own fee and expense structure. Additional offerings by any Fund relying on the order may be on a private placement or public offering basis.

8. Applicants state that, from time to time, the Initial Fund may create additional classes of shares, the terms of which may differ between Class 1 Shares, Class 2 Shares and Class 3 Shares pursuant to and in compliance with rule 18f–3 under the Act.

9. Applicants state that shares of a Fund may be subject to an early repurchase fee (''Early Repurchase Fee'') at a rate of no greater than 2% of the shareholder's repurchase proceeds if the interval between the date of purchase of the shares and the valuation date with respect to the repurchase of those shares is less than one year.[3] Any Early Repurchase Fee will apply equally to all classes of shares of a Fund, in compliance with section 18 of the Act and rule 18f–3 thereunder. To the extent a Fund determines to waive, impose scheduled variations of, or eliminate any Early Repurchase Fee, it will do so in compliance with the requirements of rule 22d–1 under the Act as if the Early Repurchase Fee were a CDSL and as if the Fund were an open-end investment company and the Fund's waiver of, scheduled variation in, or elimination of, any such Early Repurchase Fee will apply uniformly to all shareholders of the Fund regardless of class. Applicants state that the Initial Fund intends to impose an Early Repurchase Fee of 2%.

10. Applicants represent that any asset-based service and/or distribution fees for each class of shares of the Funds will comply with the provisions of the FINRA Rule 2341(d) (''FINRA Sales Charge Rule'').[4] Applicants also represent that each Fund will disclose in its prospectus the fees, expenses and other characteristics of each class of shares offered for sale by the prospectus, as is required for open-end multiple class funds under Form N–1A. As is required for open-end funds, each Fund will disclose its expenses in shareholder reports, and describe any arrangements that result in breakpoints in or elimination of sales loads in its prospectus.[5] In addition, applicants will comply with applicable enhanced fee disclosure requirements for fund of funds, including registered funds of hedge funds.[6]

11. Each of the Funds will comply with any requirements that the Commission or FINRA may adopt regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding prospectus disclosure of sales loads and revenue sharing arrangements, as if those requirements applied to the Fund. In addition, each Fund will contractually require that any distributor of the Fund's shares comply with such requirements in connection with the distribution of such Fund's shares.

Applicants' Legal Analysis

Multiple Classes of Shares

1. Section 18(a)(2) of the Act provides that a closed-end investment company may not issue or sell a senior security that is a stock unless certain requirements are met. Applicants state that the creation of multiple classes of shares of the Funds may violate section 18(a)(2) because the Funds may not meet such requirements with respect to a class of shares that may be a senior security.

2. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of shares of the Funds may be prohibited by section 18(c), as a class may have priority over another class as to payment of dividends because shareholders of different classes would pay different fees and expenses.

3. Section 18(i) of the Act provides that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that multiple classes of shares of the Funds may violate section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) from sections 18(a)(2), 18(c) and 18(i) to permit the Funds to issue multiple classes of shares.

5. Applicants submit that the proposed allocation of expenses relating

[1] A successor in interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Any Fund relying on this relief in the future will do so in compliance with the terms and conditions of the application. Applicants represent that each entity presently intending to rely on the requested relief is listed as an applicant.

[3] Applicants state that an Early Repurchase Fee charged by a Fund is not the same as a contingent deferred sales load (''CDSL'') assessed by an open-end fund pursuant to rule 6c–10 under the Act, as CDSLs are distribution-related charges payable to a distributor, whereas the Early Repurchase Fee is payable to the Fund to compensate long-term shareholders for the expenses related to shorter term investors, in light of the Fund's generally longer-term investment horizons and investment operations.

[4] Any reference to the FINRA Sales Charge Rule includes any successor or replacement to the FINRA Sales Charge Rule.

[5] *See* Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) (adopting release) (requiring open-end investment companies to disclose fund expenses in shareholder reports); and Disclosure of Breakpoint Discounts by Mutual Funds, Investment Company Act Release No. 26464 (June 7, 2004) (adopting release) (requiring open-end investment companies to provide prospectus disclosure of certain sales load information).

[6] Fund of Funds Investments, Investment Company Act Rel. Nos. 26198 (Oct. 1, 2003) (proposing release) and 27399 (Jun. 20, 2006) (adopting release). *See* also Rules 12d1–1, *et seq.* of the Act.

to distribution and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit a Fund to facilitate the distribution of its securities and provide investors with a broader choice of shareholder services. Applicants assert that the proposed closed-end investment company multiple class structure does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures that are permitted by rule 18f–3 under the Act. Applicants state that each Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

Asset-Based Distribution and/or Service Fees

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the Act. Applicants request an order under section 17(d) and rule 17d–1 under the Act to the extent necessary to permit the Fund to impose asset-based distribution and/or service fees. Applicants have agreed to comply with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies, which they believe will resolve any concerns that might arise in connection with a Fund financing the distribution of its shares through asset-based distribution fees.

3. For the reasons stated above, applicants submit that the exemptions requested under section 6(c) are necessary and appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants also state that the Funds' imposition of asset-based distribution and/or service fees is consistent with the provisions, policies and purposes of the Act and does not involve participation on a basis different from or less advantageous than that of other participants.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Each Fund relying on the order will comply with the provisions of rules 6c–10, 12b–1, 17d–3, 18f–3, 22d–1, and, where applicable, 11a–3 under the Act, as amended from time to time, as if those rules applied to closed-end management investment companies, and will comply with the FINRA Sales Charge Rule, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–26968 Filed 12–13–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93741; File No. SR–NYSE–2021–45]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Adopt Listing Standards for Subscription Warrants Issued by a Company Organized Solely for the Purpose of Identifying an Acquisition Target

December 8, 2021.

I. Introduction

On August 24, 2021, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt listing standards for subscription warrants issued by a company organized solely for the purpose of identifying an acquisition target. The proposed rule change was published for comment in the **Federal Register** on September 10, 2021.[3] On September 30, 2021, pursuant to Section 19(b)(2) of the Exchange Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] This order institutes proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act [6] to determine whether to approve or disapprove the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to adopt new Section 102.09 of the NYSE Listed Company Manual (''LCM'') to permit the listing of subscription warrants, which would be warrants issued by a company organized solely for the purpose of identifying an acquisition target and exercisable into the common stock of such company upon entry into a binding agreement with respect to such acquisition.

Pursuant to proposed LCM Section 102.09(b), the Exchange proposes to list subscription warrants subject to the following requirements:

(i) The issuer of the subscription warrants must be a company formed solely for the purpose of issuing the subscription warrants and consummating the acquisition of one or more operating businesses or assets with a value (calculated at the time of entry into the acquisition agreement) equal to at least 80% of the aggregate exercise price of the subscription warrants (an ''Acquisition'');

(ii) for a transaction to qualify as an Acquisition, the resultant entity must qualify for initial listing on the Exchange and the acquisition agreement must provide that the transaction will be consummated only if the resultant entity will be listed on the Exchange or another national securities exchange;

(iii) at the time of initial listing, the subscription warrants must: (A) Have an aggregate exercise price of at least $250 million; (B) have at least 1,100,000 publicly held subscription warrants outstanding, with an aggregate exercise

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 92876 (September 3, 2021), 86 FR 50748. Comments received on the proposal are available on the Commission's website at: *https://www.sec.gov/comments/sr-nyse-2021-45/srnyse202145.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 93221, 86 FR 55662 (October 6, 2021). The Commission designated December 9, 2021 as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

price of at least $200 million; (C) have at least 400 holders of round lots; (D) have an exercise price per share of common stock of at least $10.00; and (E) expire in no more than 10 years; [7]

(iv) the subscription warrants may not be fully exercisable for common stock of a company until after such company enters into a binding agreement with respect to the Acquisition and may not limit the ability of holders to exercise such warrants in full prior to the closing of such Acquisition;

(v) the proceeds of the exercise of the subscription warrants must be held in an interest-bearing custody account controlled by an independent custodian, pending the closing of such Acquisition;

(vi) the shares of common stock issued upon exercise of the subscription warrants must promptly be redeemed by the issuer of such subscription warrants for cash: (A) Upon termination of the acquisition agreement; or (B) if the Acquisition does not close within twelve months from the date of exercise of the subscription warrants, or such earlier time as is specified in the operative agreements; [8]

(vii) the sale of the subscription warrants and the issuance of the common stock of the issuer in exchange for the subscription warrants must both be registered under the Securities Act of 1933 (''Securities Act'');

(viii) the issuer of the subscription warrants would be subject to the same corporate governance requirements under LCM Section 303A as an issuer of listed common stock; and

(ix) the Acquisition must be approved by a majority of the independent directors of the issuer of the subscription warrants.

The Exchange also proposes to amend LCM Section 802.01B to set forth continued listing criteria for subscription warrants listed under proposed LCM Section 102.09. The proposed amendments would specify that the Exchange would immediately initiate suspension and delisting procedures of an issuer's subscription warrants if:

(i) The number of publicly-held subscription warrants is fewer than 100,000;

(ii) the number of public holders of such subscription warrants is fewer than 100; [9] or

(iii) the total market capitalization of such subscription warrants is below $15 million over 30 consecutive trading days.[10]

An issuer of subscription warrants would not be eligible to submit a compliance plan as outlined in LCM Sections 802.02 and 802.03 with respect to the above continued listing criteria and any such security would be subject to delisting procedures as set forth in LCM Section 804 (Procedure for Delisting).[11]

III. Proceedings To Determine Whether To Approve or Disapprove SR–NYSE–2021–45 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act [12] to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved.

Pursuant to Section 19(b)(2)(B) of the Exchange Act,[13] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with the Exchange Act and, in particular, with Section 6(b)(5) of the Exchange Act, which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[14]

The Commission has consistently recognized the importance of national securities exchange listing standards. Among other things, such listing standards help ensure that exchange-listed companies will have sufficient public float, investor base, and trading interest to provide the depth and liquidity necessary to promote fair and orderly markets.[15]

As described above, the proposal would allow the Exchange to list subscription warrants, which would be warrants issued by a company organized solely for the purpose of identifying an Acquisition target and exercisable into the common stock of such company upon entry into a binding agreement with respect to such Acquisition. The Exchange states that the proposed requirements applicable to the listing of subscription warrants would provide adequate protections for investors and the public interest.[16] According to the Exchange, the proposal would facilitate the listing and trading of an additional type of security that will enhance competition among market participants.[17]

The Commission received two comment letters from representatives of an issuer seeking to list subscription

[7] For purposes of proposed LCM Section 102.09, public holders of subscription warrants would not include those held by directors, officers, or their immediate families and other concentrated holdings of 10 percent. *See* proposed LCM Section 102.09(c).

[8] If the shares issuable upon exercise of the subscription warrants were redeemed, the holders would receive cash payments equal to their proportional share of the funds in the custody account, including any interest earned on those funds. *See* proposed LCM Section 102.09(b)(vi).

[9] For purposes of proposed LCM Section 802.01B, public holders of subscription warrants would not include those held by directors, officers, or their immediate families and other concentrated holdings of 10 percent. *See* proposed LCM Section 802.01B(b).

[10] *See* proposed LCM Section 802.01B(a).

[11] *See* proposed LCM Section 802.01B(c).

[12] 15 U.S.C. 78s(b)(2)(B).

[13] *Id.*

[14] 15 U.S.C. 78f(b)(5).

[15] The Commission has stated in approving national securities exchange listing requirements that the development and enforcement of adequate standards governing the listing of securities on an exchange is an activity of critical importance to the financial markets and the investing public. In addition, once a security has been approved for initial listing, maintenance criteria allow an exchange to monitor the status and trading characteristics of that issue to ensure that it continues to meet the exchange's standards for market depth and liquidity so that fair and orderly markets can be maintained. *See, e.g.,* Securities Exchange Act Release Nos. 91947 (May 19, 2021), 86 FR 28169, 28172 n.47 (May 25, 2021) (SR–NASDAQ–2020–057) (''Nasdaq 2021 Order''); 90768 (December 22, 2020), 85 FR 85807, 85811 n.55 (December 29, 2020) (SR–NYSE–2019–67) (''NYSE 2020 Order''); 82627 (February 2, 2018), 83 FR 5650, 5653 n.53 (February 8, 2018) (SR–NYSE–2017–30) (''NYSE 2018 Order''); 81856 (October 11, 2017), 82 FR 48296, 48298 (October 17, 2017) (SR–NYSE–2017–31); 81079 (July 5, 2017), 82 FR 32022, 32023 (July 11, 2017) (SR–NYSE–2017–11). The Commission has stated that adequate listing standards, by promoting fair and orderly markets, are consistent with Section 6(b)(5) of the Exchange Act, in that they are, among other things, designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and protect investors and the public interest. *See, e.g.,* Nasdaq 2021 Order, 86 FR 28172 n.47; NYSE 2020 Order, 85 FR 85811 n.55; NYSE 2018 Order, 83 FR 5653 n.53; Securities Exchange Act Release Nos. 87648 (December 3, 2019), 84 FR 67308, 67314 n.42 (December 9, 2019) (SR–NASDAQ–2019–059); 88716 (April 21, 2020), 85 FR 23393, 23395 n.22 (April 27, 2020) (SR–NASDAQ–2020–001).

[16] *See* Notice, *supra* note 3, at 50749.

[17] *See id.*

warrants should the Exchange's proposal be approved.[18] These commenters stated that the proposal would provide an alternative to the current listing rules for Special Purpose Acquisition Companies (''SPACs'') [19] but that investors in subscription warrants would be required to contribute less upfront capital than investors in a traditional SPAC.[20] These commenters also stated that the proposed 10-year term for subscription warrants would provide enhanced negotiating leverage to an acquisition company sponsor than that provided by a traditional SPAC.[21] One of these commenters asserted that subscription warrants would give investors a greater opportunity to consider the quality of an acquisition because they would require investors to affirmatively ''opt-in'' to a potential acquisition through exercise of the warrants, as compared to the traditional SPAC structure where the default action is for an investor's shares to be converted into the combined company unless the shareholder elects to redeem those shares (*i.e.,* the investor has to ''opt out'').[22] This commenter further stated that the Exchange's proposed quantitative standards for subscription warrants would require a sponsor to have a ''sufficient track record and reputation for creating shareholder value.'' [23] One commenter offered suggested modifications to the proposed rule change, including: (1) That the proposed subscription warrants not be exercisable prior to the time at which a post-effective amendment to the company's initial registration statement, containing comprehensive disclosure regarding the proposed Acquisition, has been declared effective by the Commission; (2) modifications to the proposed exercise and redemption process; (3) that the issuer be required to consummate its Acquisition within 12 months of entering into its Acquisition agreement; (4) that the proposed rule change provide for a minimum number of shares that may be purchased upon the exercise of a subscription warrant at a fixed per share price; and (5) that the proposed rule change permit the issuance of an additional class of subscription warrants with a higher exercise price that would remain exercisable up to five years after the date of the Acquisition.[24]

The Commission also received comments from individual investors broadly supporting the proposed rule change. These commenters generally asserted that the proposed listing and trading of subscription warrants would allow retail investors to invest in early-stage companies without tying up excessive capital.[25] The Commission also received some comments from individual investors voicing concerns that, as proposed, subscription warrants may be susceptible to fraud and manipulation.[26] One of these commenters stated that the valuation of a subscription warrant would be highly subjective due to the fact that the issuer would not have any underlying assets or business operations, and that the subscription warrants would thereby derive their value solely from the reputation of the sponsor or speculation of possible Acquisition targets.[27] This commenter stated that this could create a conflict of interest if the sponsor were permitted to sell its subscription warrants or distribute the subscription warrants in an inequitable manner.[28] Another commenter expressed concerns regarding the length of time a subscription warrant may remain outstanding, stating that it would lead to uncertainty regarding when an Acquisition may occur.[29]

The Commission has concerns about whether the proposal is sufficiently designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and protect investors and the public interest, as required by Section 6(b)(5) of the Exchange Act. As described above, the Exchange proposes to list subscription warrants that would be exercisable into the common stock of a company upon its entry into an acquisition agreement with an unknown target, on unknown terms, at any time up to ten years from the date of issuance. Subscription warrants could be issued for no consideration, and the Exchange has proposed no minimum price per warrant.

Current Exchange rules for listed warrants, among other things, require that they be exercisable on specified terms into a specified security listed on the Exchange.[30] Current Exchange rules for listed SPACs, among other things, require a minimum $4 initial price per share and a substantial market value reflecting the cash held in trust, and that an acquisition be completed within three years.[31]

The Exchange justifies its proposal simply by stating that it ''is consistent with Section 6(b)(5) of the Act in that it contains requirements in relation to the listing of Subscription Warrants that provide adequate protections for investors and the public interest,'' and then listing some of the elements of the proposal.[32] The Exchange also states, without elaboration, that its proposal ''is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of security and that it will enhance competition among market participants, to the benefit of investors and the marketplace.'' [33]

The Exchange does not explain how market participants would effectively value this novel listed security, or how it would be expected to trade consistent with fair and orderly markets and the protection of investors and the public interest. As noted above, subscription warrants could be issued for no consideration [34] and have negligible

[18] *See* letters to Vanessa Countryman, Secretary, Commission, from William A. Ackman, Pershing Square Capital Management, L.P., dated September 26, 2021 (''Ackman Letter''); and Cadwalader, Wickersham & Taft LLP, dated September 30, 2021 (''CWT Letter'').

[19] The Exchange's listing standards for SPACs are set forth in LCM sections 102.06 and 802.01. The Commission notes that throughout this order we have used the term ''SPAC.'' This term has the same meaning as ''Acquisition Company,'' which is the term used by the Exchange in the LCM.

[20] *See* Ackman Letter at 4–5; CWT Letter at 1–2.

[21] *See* Ackman Letter at 5; CWT Letter at 2. Pursuant to LCM section 102.06, a SPAC has three years to consummate a business combination.

[22] *See* Ackman Letter at 5. See also LCM Section 102.06, which sets forth the Exchange's listing requirements for SPACs.

[23] *See id.* at 6.

[24] *See* CWT Letter at 3–5.

[25] *See, e.g.,* letters from Stephan Kroeber, dated September 7, 2021; William J. Hooy, Esq., dated September 7, 2021; Brian Hwang, dated October 18, 2021; and James Porteous, dated October 18, 2021.

[26] *See, e.g.,* letters from Nikesh Bhattarai, dated September 6, 2021; Maksim P. Martynyuk, dated September 7, 2021; Nicholas Jenzer, dated September 7, 2021; and Hedgely, dated October 12, 2021.

[27] *See* letter from Nicholas Jenzer.

[28] *See id. See also* letter from Maksim P. Martynyuk (expressing similar concerns regarding sponsor conflicts).

[29] *See* Anonymous letter received September 7, 2021.

[30] *See* LCM Section 703.12. *See also* LCM Section 802.01D (providing that the Exchange will consider delisting warrants if the related security is delisted). Exchange listing standards for equity investment tracking stocks and subscription receipts have similar requirements. *See* LCM Sections 102.07 and 102.08. *See also* LCM Section 802.01B (providing that the Exchange will immediately initiate suspension and delisting procedures if the listed equity security or securities whose value is tracked by the equity investment tracking stock ceases or cease to be listed on the Exchange and the equity investment tracking stock does not qualify for initial listing at that time under another applicable listing standard); and LCM Section 802.01B (providing that the Exchange will immediately initiate suspension and delisting procedures if the subscription receipt issuer's related common equity security ceases to be listed on the Exchange).

[31] *See* LCM Section 102.06. *See also* LCM Section 802.01.

[32] *See* Notice, *supra* note 3, at 50749.

[33] *See id.*

[34] The Exchange's proposal also would appear to permit subscription warrants to be issued for value.

Continued

value. The value of a subscription warrant, if any, would appear to derive primarily from expectations that the sponsor ultimately will offer holders the ability to exercise the warrant on attractive terms once a target company is identified and an acquisition agreement signed. The Exchange does not address, among other things, the types of market information that could create a positive value for subscription warrants, the reliability and availability of such information, or whether such information could support fair and efficient trading of an Exchange-listed security for a period as long as ten years.

The Exchange also does not explain how it would effectively address the risk the price of subscription warrants could be manipulated, or how its proposal otherwise would be designed to prevent fraudulent and manipulative acts and practices. For example, the price of subscription warrants would appear to be particularly susceptible to rumors about potential acquisition targets and the terms of potential transactions. Because subscription warrants may trade at a very low price, they may permit a bad actor to efficiently manipulate these securities with little upfront cost. The Exchange does not address how its proposal is designed to prevent the risk that subscription warrants may be particularly susceptible to manipulation.

Further, the Exchange does not explain the rationale for the various numerical standards and criteria set forth in its proposal, or how they together are designed to be consistent with the Exchange Act and the rules and regulations thereunder. For example, the Exchange proposes that an issuer's subscription warrants may initially be listed on the Exchange if there are at least 1,100,000 publicly held warrants outstanding, but also proposes a continued listing standard that requires immediate suspension and delisting procedures if the total market capitalization of the subscription warrants is below $15 million over 30 consecutive trading days. This would imply a minimum price in these circumstances of more than $13 per warrant. Because subscription warrants may trade at a very low price, as discussed above, they may become subject to delisting very soon after listing, depending on the number of warrants outstanding. The Exchange has not addressed how such a scenario would be consistent with the protection of investors and the public interest and other relevant provisions of the Exchange Act, or how the other numerical standards and criteria set forth in its proposal have been designed to work together to avoid similar outcomes.

In addition, while the proposal states that the sale of both the subscription warrants and the issuance of the common stock in exchange for the subscription warrants must be registered under the Securities Act, the proposal is unclear as to the requirements relating to Securities Act registration at the time the warrants become eligible to be exercised into common stock. In particular, the proposal does not appear to require a registration statement or, if possible, a post-effective amendment at the critical time when warrant holders have to make a decision on exercising their warrants for common stock. Therefore, it is unclear how investors will have the information necessary to make an informed decision regarding their purchase of securities, including a discussion of the target's business as well as any required financial statements. Further, and importantly, without registration or a post-effective amendment, investors will not necessarily have the protections of the private liability provisions of the Securities Act when exercising their warrants for the common stock. For example, the filing of a new registration statement or post-effective amendment would effectively restart the Section 11 statute of limitations with a new effective date and would permit staff review of the filing. Without this investors may not have a remedy available under the Securities Act for material misstatements. Given these important investor protection issues, there are questions raised about the proposal's consistency with the investor protection and public interest requirements under Section 6(b)(5) of the Exchange Act.

Finally, it is unclear under the Exchange's proposal whether the company would meet the definition of investment company under the Investment Company Act of 1940 (''1940 Act''). If so, the company may need to register under the 1940 Act, which would require a new listing rule, proposed by the Exchange and approved by the Commission, that contemplates the company's status under the 1940 Act.

Accordingly, the Commission believes there are questions as to whether the proposal is consistent with Section 6(b)(5) of the Exchange Act and its requirements, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest, and not be designed to permit unfair discrimination.

Under the Commission's Rules of Practice, the ''burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the self-regulatory organization that proposed the rule change.'' [35] The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,[36] and any failure of a self-regulatory organization to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Exchange Act and the applicable rules and regulations.[37]

For these reasons, the Commission believes it is appropriate to institute proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act [38] to determine whether the proposal should be approved or disapproved.

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) [39] of the Exchange Act or any other provision of the Exchange Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4 under the Exchange Act,[40] any request for an

While the proposal would require the proceeds of the exercise of subscription warrants to be held in an interest-bearing custody account controlled by an independent custodian, pending the closing of an Acquisition, it does not address the handling of the proceeds of the issuance of the subscription warrants themselves, or why the lack of similar protections is consistent with Section 6(b)(5) and other provisions of the Exchange Act.

[35] 17 CFR 201.700(b)(3).

[36] *See id.*

[37] *See id.*

[38] 15 U.S.C. 78s(b)(2)(B).

[39] 15 U.S.C. 78f(b)(5).

[40] 17 CFR 240.19b–4.

opportunity to make an oral presentation.[41]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by January 4, 2022. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by January 18, 2022. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice,[42] in addition to any other comments they may wish to submit about the proposed rule change.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2021–45 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2021–45. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2021–45 and should be submitted by January 4, 2022. Rebuttal comments should be submitted by January 18, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–26970 Filed 12–13–21; 8:45 am]

BILLING CODE 8011–01–P

[39] 15 U.S.C. 78f(b)(5).

[40] 17 CFR 240.19b–4.

[41] Section 19(b)(2) of the Exchange Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[42] *See supra* note 3.

[43] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0006, SEC File No. 270–022]

Submission for OMB Review; Comment Request, Extension: Form 13F

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Section 13(f) [1] of the Securities Exchange Act of 1934 [2] (the ''Exchange Act'') empowers the Commission to: (1) Adopt rules that create a reporting and disclosure system to collect specific information; and (2) disseminate such information to the public. Rule 13f–1 [3] under the Exchange Act requires institutional investment managers that exercise investment discretion over accounts that have in the aggregate a fair market value of at least $100,000,000 of certain U.S. exchange-traded equity securities, as set forth in rule 13f–1(c), to file quarterly reports with the Commission on Form 13F.[4]

The information collection requirements apply to institutional investment managers that meet the $100 million reporting threshold. Section 13(f)(6)(A) of the Exchange Act defines an ''institutional investment manager'' as any person, other than a natural person, investing in or buying and selling securities for its own account, and any person exercising investment discretion with respect to the account of any other person. Rule 13f–1(b) under the Exchange Act defines ''investment discretion'' for purposes of Form 13F reporting.

The reporting system required by Section 13(f) of the Exchange Act is intended, among other things, to create in the Commission a central repository of historical and current data about the investment activities of institutional investment managers, and to improve the body of factual data available to regulators and the public.

The currently approved burden estimates include a total hour burden of 472,521.6 hours, with an internal cost burden of $31,186,425.60, to comply with Form 13F.[5] Consistent with a recent rulemaking proposal that made adjustments to these estimates due primarily to the Commission's belief that the currently approved estimates do not appropriately reflect the information collection costs associated with Form 13F,[6] the table below reflects the revised estimates.

[3] 17 CFR 240.13f–1.

[4] 17 CFR 249.325.

[5] This estimate is based on the last time the rule's information collection was submitted for PRA renewal in 2018.

[6] *See* Electronic Submission of Applications for Orders under the Advisers Act and the Investment Company Act, Confidential Treatment Requests for Filings on Form 13F, and Form ADV–NR; Amendments to Form 13F, Investment Company Release No. (Nov. 4, 2021).

TABLE—FORM 13F CURRENT AND REVISED BURDEN ESTIMATES

	Initial hours	Annual hours		Wage rate	Internal time cost	External costs [1]
REVISIONS TO CURRENT PRA BURDEN ESTIMATES						
Revised Burdens for 13F–HR Filings						
Current estimated annual burden of Form 13F–HR per filer.	.....	80.8 hours	×	$66 [2]	$5,332.80.	
Revised current annual estimated burden per filer.	.....	10 hours [3]	×	$202.50 (blended rate for senior programmer and compliance clerk).[4]	$2,025	$789.[6]
		1 hour [3]		$368 (compliance attorney rate) [5]	$368.	
Total revised estimated burden per filer.	.....	11 hours		.....	$2,393	$789.
Number of filers	.....	5,466 filers [7]		.....	5,466 filers	5,466 filers.
Revised current annual burden of Form 13F–HR filings.	.....	60,126 hours		.....	$13,080,138	$4,312,674.
Revised Burdens for 13F–NT Filings						
Current estimated annual burden of Form 13F–NT.	.....	80.8 hours.				
Revised current annual burden of Form 13F–NT per filer.	.....	4 hours	×	$71 (wage rate for compliance clerk)	$284	$300.
Number of filers	.....	1,535 filers [8]		.....	1,535 filers	1,535 filers.
		6,140 hours		.....	$435,940	$460,500.
Revised Burdens for Form 13F Amendment Filings						
Current estimated burden per amendment filing.	.....	4 hours		$66.00	$264.	
Revised current estimated burden per amendment.	.....	3.5 hours [9]	×	$202.50 (blended rate for senior programmer and compliance clerk).	$708.75	$300.
		0.5 hour [9]		$368 (compliance attorney rate)	$184.	
Total revised estimates burden per amendment.	.....	4 hours		.....	$892.75	$300.
Number of amendments	.....	244 amendments [10] ..		.....	244 amendments	244 amendments.
Revised current annual estimated burden of all amendments.	.....	976 hours		.....	$217,831	$73,200.
TOTAL ESTIMATED FORM 13F BURDEN						
Currently approved burden estimates	472,521.6 hours			.....	$31,186,425.60	$0.
Revised current burden estimates	67,242 hours			.....	$13,733,909	$4,846,374.

Notes:

1. The external costs of complying with Form 13F can vary among filers. Some filers use third-party vendors for a range of services in connection with filing reports on Form 13F, while other filers use vendors for more limited purposes such as providing more user-friendly versions of the list of section 13(f) Securities. For purposes of the PRA, we estimate that each filer will spend an average of $300 on vendor services each year in connection with the filer's four quarterly reports on Form 13F–HR or Form 13F–NT, as applicable, in addition to the estimated vendor costs associated with any amendments. In addition, some filers engage outside legal services in connection with the preparation of requests for confidential treatment or analyses regarding possible requests, or in connection with the form's disclosure requirements. For purposes of the PRA, we estimate that each manager filing reports on Form 13F–HR will incur $489 for one hour of outside legal services each year.

2. $66 was the estimated wage rate for a compliance clerk in 2018.

3. The estimate reduces the total burden hours associated with complying with the reporting requirements of Form 13F–HR from 80.8 to 11 hours. We believe that this reduction adequately reflects the reduction in the time managers spend complying with Form 13F–HR as a result of advances in technology that have occurred since Form 13F was adopted. The revised estimate also assumes that an in-house compliance attorney would spend 1 hour annually on the preparation of the filing, as well as determining whether a 13(f) Confidential Treatment Request should be filed. The remaining 10 hours would be divided equally between a senior programmer and compliance clerk.

4. The $202.50 wage rate reflects current estimates of the blended hourly rate for an in-house senior programmer ($334) and in-house compliance clerk ($71). $202.50 is based on the following calculation: ($334 + $71)/2 = $202.50. The $334 per hour figure for a senior programmer is based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association's Office Salaries in the Securities Industry 2013 (''SIFMA Report''), modified by Commission staff to account for an 1800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead. The $71 per hour figure for a compliance clerk is based on salary information from the SIFMA Report, modified by Commission staff to account for an 1800-hour work-year and inflation, and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead.

5. The $368 per hour figure for a compliance attorney is based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association's Office Salaries in the Securities Industry 2013 (''SIFMA Report''), modified by Commission staff to account for an 1800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

6. $789 includes an estimated $300 paid to a third-party vendor in connection with the Form 13F–HR filing as well as an estimated $489 for one hour of outside legal services. We estimate that Form 13F–HR filers will require some level of external legal counsel in connection with these filings.

7. This estimate is based on the number of 13F–HR filers as of December 2019.

8. This estimate is based on the number of Form 13F–NT filers as of December 2019.

9. The revised estimate assumes that an in-house compliance attorney would spend 0.5 hours annually on the preparation of the filing amendment, as well as determining whether a 13(f) Confidential Treatment Request should be filed. The remaining 3.5 hours would be divided equally between a senior programmer and compliance clerk.

10. This estimate is based on the number of Form 13F amendments filed as of December 2019.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, C/O John R. Pezzullo, 100 F Street NE, Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: December 8, 2021.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–26967 Filed 12–13–21; 8:45 am]

BILLING CODE P

SECURITIES AND EXCHANGE COMMISSION

[Release No. PA–57A; File No. S7–14–21]

Privacy Act of 1974; System of Records; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Notice; correction.

SUMMARY: The Securities and Exchange Commission published a document in the **Federal Register** on November 29, 2021, concerning a Privacy Act of 1974; System of Records. The document contained an incorrect effective date. Comments are due on December 29, 2021.

FOR FURTHER INFORMATION CONTACT: For general and privacy related questions please contact: Ronnette McDaniel, Privacy and Information Assurance Branch Chief, 202–551–7200 or *privacyhelp@sec.gov.*

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of November 29, 2021 in FR Doc. 2021–25871, on page 67755, in the first column, correct the **DATES** section to read:

DATES: The changes will become effective December 29, 2021, to permit public comment on the revised routine uses. The Commission will publish a new notice if the effective date is delayed to review comments or if changes are made based on comments received. To assure consideration, comments should be received on or before December 29, 2021.

Dated: December 9, 2021.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–26991 Filed 12–13–21; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17165 and #17166; Pennsylvania Disaster Number PA–00113]

Presidential Declaration Amendment of a Major Disaster for the Commonwealth of Pennsylvania

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the Commonwealth of Pennsylvania (FEMA–;4618–DR), dated 09/10/2021.

Incident: Remnants of Hurricane Ida.

Incident Period: 08/31/2021 through 09/05/2021.

DATES: Issued on 12/07/2021.

Physical Loan Application Deadline Date: 01/10/2022.

Economic Injury (EIDL) Loan Application Deadline Date: 06/10/2022.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the Commonwealth of Pennsylvania, dated 09/10/2021, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 01/10/2022.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Barbara Carson,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2021–27009 Filed 12–13–21; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2021–1024]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Certification of Airports

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection.

DATES: Written comments should be submitted by February 14, 2022.

ADDRESSES: *Please send written comments:*

By Electronic Docket: www.regulations.gov. Enter docket number: FAA–2021–1024 into search field.

By email: chel.schweitzer@faa.gov.

FOR FURTHER INFORMATION CONTACT: Chel Schweitzer by email at: *chel.schweitzer@faa.gov;* phone: 202–679–2677.

SUPPLEMENTARY INFORMATION: 14 CFR part 139 establishes certification requirements for airports serving scheduled passenger-carrying operations of an air carrier operating aircraft configured for more than 9 passenger seats, as determined by the regulations under which the operation is conducted or the aircraft type certificate issued by a competent civil aviation authority; and unscheduled

passenger-carrying operations of an air carrier operating aircraft configured for at least 31 passenger seats, as determined by the regulations under which the operation is conducted or the aircraft type certificate issued by a competent civil aviation authority. This part does not apply to: Airports serving scheduled air carrier operations only by reason of being designated as an alternate airport; airports operated by the United States; airports located in the State of Alaska that only serve scheduled operations of small air carrier aircraft and do not serve scheduled or unscheduled operations of large air carrier aircraft; airports located in the State of Alaska during periods of time when not serving operations of large air carrier aircraft; or heliports.

The collection involves FAA Form 5280–1, Application for Airport Operating Certificate. Every airport that wants to become a certificated Part 139 airport must complete this form, as well as provide a draft Airport Certification Manual (ACM). In addition, currently certificated Part 139 airports must maintain their ACM, as well as keep and maintain records related to training, self-inspection, and other requirements of Part 139.

The collection includes an additional automated tool to assist airports in reporting airport status after an incident, or emergency event, has impacted the airport or surrounding area. The Airport Crisis Response Reporting (ACRR) tool simplifies the reporting process by allowing airports to directly input their airport status into the tool.

These records allow the FAA to verify compliance with Part 139 safety and operational requirements to ensure that the airports meet the minimum safety requirements of Part 139, which in turn enhances the safety of the flying public.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0675.

Title: Certification of Airports, 14 CFR part 139.

Form Numbers: FAA Form 5280–1.

Type of Review: Renewal of an information collection.

Background: The statutory authority to issue airport operating certificates to airports serving certain air carriers and to establish minimum safety standards for the operation of those airports is currently found in Title 49, United States Code (U.S.C.) § 44706, Airport operation certificates. The FAA uses this authority to issue requirements for the certification and operation of certain airports that service commercial air carriers. These requirements are contained in Title 14, Code of Federal Regulation Part 139 (14 CFR part 139), Certification and Operations: Land Airports Serving Certain Air Carriers, as amended. Information collection requirements are used by the FAA to determine an airport operator's compliance with Part 139 safety and operational requirements, and to assist airport personnel to perform duties required under the regulation.

Operators of certificated airports are required to complete FAA Form 5280–1 and develop, and comply with, a written document, an Airport Certification Manual (ACM) that details how an airport will comply with the requirements of Part 139. The ACM shows the means and procedures whereby the airport will be operated in compliance with Part 139, plus other instructions and procedures to help personnel concerned with operation of the airport to perform their duties and responsibilities.

When an airport satisfactorily complies with such requirements, the FAA issues to that facility an airport operating certificate (AOC) that permits an airport to serve air carriers. The FAA periodically inspects these airports to ensure continued compliance with Part 139 safety requirements, including the maintenance of specified records. Both the application for an AOC and annual compliance inspections require operators of certificated airports to collect and report certain operational information. The AOC remains in effect as long as the need exists and the operator complies with the terms of the AOC and the ACM.

The likely respondents to new information requests are those civilian U.S. airport certificate holders who operate airports that serve scheduled and unscheduled operations of air carrier aircraft with more than 10 passenger seats (approximately 520 airports). These airport operators already hold an AOC and comply with all current information collection requirements.

Operators of certificated airports are permitted to choose the methodology to report information and can design their own recordkeeping system. As airports vary in size, operations and complexities, the FAA has determined this method of information collection allows airport operators greater flexibility and convenience to comply with reporting and recordkeeping requirements. 100% of the information may be submitted electronically.

The FAA has an automated system, the Certification and Compliance Management Information System (CCMIS), which allows FAA airport safety and certification inspectors to enter into a national database airport inspection information. This information is monitored to detect trends and developing safety issues, to allocate inspection resources, and generally, to be more responsive to the needs of regulated airports.

The FAA has developed an automated reporting tool, the Airport Crisis Response Reporting (ACRR) tool, which allows airport personnel to directly input status of their airports after an incident, or emergency event, impacts their airport or the surrounding area.

Respondents: Approximately 520 airports.

Frequency: Information collected on occasion.

Estimated Average Burden per Response: 178 hours.

Estimated Total Annual Burden: 92,584 hours.

Issued in Washington, DC on this date, November 23, 2021.

Anthony M. Butters,

Deputy Manager, Airport Safety and Operations (AAS–300).

[FR Doc. 2021–25979 Filed 12–13–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2021–0046; Notice 1]

Goodyear Tire & Rubber Company, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Goodyear Tire & Rubber Company (Goodyear), has determined that certain Goodyear Convenience Spare tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 109, *New Pneumatic and Certain Specialty Tires.* Goodyear filed an original noncompliance report dated June 8, 2021, and subsequently, Goodyear petitioned NHTSA on June

21, 2021, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Goodyear's petition.

DATES: Send comments on or before January 13, 2022.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–8).

FOR FURTHER INFORMATION CONTACT: Jayton Lindley, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (325) 655–0547.

SUPPLEMENTARY INFORMATION:

I. Overview

Goodyear has determined that certain Goodyear Convenience Spare tires do not fully comply with the requirements of paragraph S4.2.1(c) and S4.3(c) of FMVSS No. 109, *New Pneumatic and Certain Specialty Tires* (49 CFR 571.109). Goodyear filed a noncompliance report dated June 8, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Goodyear subsequently petitioned NHTSA on June 21, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of Goodyear's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Tires Involved

Approximately 534 Goodyear Convenience Spare tires, size T155/70D17 110M SL, manufactured between February 15, 2021, and April 8, 2021, are potentially involved.

III. Noncompliance

Goodyear explains that the noncompliance is that the subject tires incorrectly state the maximum load in kg on one side of the tire and, therefore, do not comply with the requirements specified in paragraphs S4.2.1(c) and S4.3(c) of FMVSS No. 109. Specifically, the subject tires are marked on one sidewall with a Maximum Load of 1080 kg, when they should have been marked with a Maximum Load of 1060 kg.

IV. Rule Requirements

Paragraphs S4.2.1(c) and S4.3(c) of FMVSS No. 109 include the requirements relevant to this petition. Each tire shall conform to each of the following: Its load rating shall be that specified in a submission made by an individual manufacturer, pursuant to paragraph S4.2.1(a), or in one of the publications described in paragraph S4.4.1(b) for its size designation, type, and each appropriate inflation pressure. If the maximum load rating for a particular tire size is shown in more than one of the publications described in paragraph S4.4.1(b), each tire of that size designation shall have a maximum load rating that is not less than the published maximum load rating, or if there are differing maximum load ratings for the same tire size designation, not less than the lowest published maximum load rating. Except as provided in paragraphs S4.3.1 and S4.3.2 of this standard, each tire, except for those certified to comply with paragraph S5.5 of § 571.139, shall have permanently molded into or onto both sidewalls, in letters and numerals not less than 0.078 inches high, the information shown in paragraphs S4.3 (a) through (g) of this standard. (c) Maximum load rating.

V. Summary of Goodyear's Petition

The following views and arguments presented in this section, ''V. Summary of Goodyear's Petition,'' are the views and arguments provided by Goodyear. They have not been evaluated by the Agency and do not reflect the views of the Agency. Goodyear describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Goodyear submitted the following reasoning:

1. The subject tires were manufactured as designed and meet or exceed all applicable FMVSSs.

2. Goodyear states the subject tires are original equipment on several Toyota and Subaru vehicle models and were designed and manufactured to meet or exceed the specified vehicle loading conditions as specified by the vehicle manufacturers.

3. According to Goodyear, the 110 numerical Load Index marked on the tire as part of the Service Description (110M) is correct as marked.

4. Goodyear claims the subject tires that were mismarked Max Load 1080 kg in place of Max Load 1060 kg met the performance requirements of FMVSS No. 109 for endurance and high speed when tested at the 1080 kg load.

5. The subject tires are marked correctly for Max Load in pounds on both sides of the tire. Further, Goodyear says the subject tires are primarily sold in the domestic original equipment market, where the load in pounds would be the predominant consumer unit of measurement.

6. The subject tires are marked in letters 20-mm high ''TEMPORARY USE ONLY'' as they are convenience spare tires.

7. Goodyear contends that NHTSA has previously granted petitions for similar noncompliances related to tire loading labeling information on tires and previous NHTSA surveys have shown most consumers do not base tire purchases on tire labeling information found on the tire sidewall. Since the subject tires are temporary use only spare tires, any considerations about what information consumers rely on for tire purchases is even less of a concern.

Goodyear concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject tires that Goodyear no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Goodyear notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2021–26981 Filed 12–13–21; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Action

On December 7, 2021, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

BILLING CODE 4810–AL–P

Individual:

1. KANDIHO, Abel, Uganda; DOB 11 Jun 1970; POB Mbarara, Uganda; nationality Uganda; Gender Male; Passport DA025622 (Uganda) expires 29 Mar 2027 (individual) [GLOMAG].

   Designated pursuant to section 1(a)(ii)(C)(1) of Executive Order 13818 of December 20, 2017, "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," 82 FR 60839, 3 CFR, 2018 Comp., p. 399, (E.O. 13818) for being a foreign person who is or has been a leader or official of an entity, including any government entity, that has engaged in, or whose members have engaged in, serious human rights abuse relating to the leader's or official's tenure.

2. AL-HASOURI, Muhammad Yousef (Arabic: محمد يوسف الحاصوري) (a.k.a. HASOURI, Mohammad Yousef (Arabic: محمد يوسف□اصوري); a.k.a. HASOURI, Muhammad Yousef; a.k.a. HASOURI, Muhammed Yousef), Syria; DOB 1965; POB Talkalakh, Homs, Syria; nationality Syria; Gender Male; Major General (individual) [SYRIA].

   Designated pursuant to Section 1(b)(i) of Executive Order 13572 of April 29, 2011 "Blocking Property of Certain Persons With Respect to Human Rights Abuses in Syria," 76 FR 24787, 3 CFR, 2011 Comp., p. 236 (E.O. 13572) for being responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or having participated in, the commission of human rights abuses in Syria, including those related to repression.

3. KHADOUR, Tawfiq Muhammad (Arabic: توفيق محمد خضور) (a.k.a. KHADUR, Tawfiq Ahmad), Syria; DOB 1966; POB Hilat Ara, Jablah, Syria; nationality Syria; Gender Male; Major General (individual) [SYRIA].

   Designated pursuant to Section 1(b)(i) of E.O. 13572 for being responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or having participated in, the commission of human rights abuses in Syria, including those related to repression.

4. AL-HASSAN, Kamal (a.k.a. HASAN, Kamal 'Ali (Arabic: كمال علي□سن)), Damascus, Syria; DOB 10 Jun 1967; nationality Syria; Gender Male; National ID No. 571778 (Syria); Brigadier General (individual) [SYRIA] (Linked To: SYRIAN MILITARY INTELLIGENCE DIRECTORATE).

   Designated pursuant to Section 1(b)(ii) of E.O. 13572 for being a senior official of SYRIAN MILITARY INTELLIGENCE DIRECTORATE.

5. KHALIL, Qahtan (Arabic: خليل قحطان), Syria; DOB 1964; nationality Syria; Gender Male; Major General (individual) [SYRIA] (Linked To: SYRIAN AIR FORCE INTELLIGENCE).

   Designated pursuant to Section 1(b)(ii) of E.O. 13572 for being a senior official of SYRIAN AIR FORCE INTELLIGENCE.

6. SALAMEH, Adeeb Namer (Arabic: أديب نمر سلامة) (a.k.a. SALAMAH, Adib Nimr; a.k.a. SALAMEH, Adib), Damascus, Syria; DOB 26 Nov 1953; POB Dahr Al-Maghar, al-Salamiyeh, Hamah, Syria; nationality Syria; Gender Male; Passport 578761 (Syria); Major General (individual) [SYRIA] (Linked To: SYRIAN AIR FORCE INTELLIGENCE).

   Designated pursuant to Section 1(b)(ii) of E.O. 13572 for being a senior official of SYRIAN AIR FORCE INTELLIGENCE.

7. HEMMATIAN, Ali (Arabic: علی همتیان) (a.k.a. AMINIAN, Ali; a.k.a. "Raouf"), Iran; DOB 1982; alt. DOB 1983; POB Damghan, Semnan Province, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male (individual) [IRGC] [IRAN-HR].

   Designated pursuant to section 1(a)(ii)(A) of Executive Order 13553 of September 28, 2010, "Blocking Property of Certain Persons With Respect to Serious Human Rights Abuses by the Government of Iran and Taking Certain Other Actions" (E.O. 13553), 3 CFR, 2011 Comp., p. 253, for being a person acting on behalf of the Government of Iran (including members of paramilitary organizations) who is responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, the commission of serious human rights abuses against persons in Iran or Iranian citizens or residents, or the family members of the foregoing, on or after June 12, 2009, regardless of whether such abuses occurred in Iran.

8. SAFDARI, Masoud (Arabic: مسعود صفدری) (a.k.a. SAFDARI, Massoud; a.k.a. "Sattar"), Shahrak Shahid Mahallati District, Tehran, Iran; DOB 1983; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male (individual) [IRGC] [IRAN-HR].

   Designated pursuant to section 1(a)(ii)(A) of E.O. 13553 for being a person acting on behalf of the Government of Iran (including members of paramilitary organizations) who is responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, the commission of serious human rights abuses against persons in Iran or Iranian citizens or residents, or the family members of the foregoing, on or after June 12, 2009, regardless of whether such abuses occurred in Iran.

9. SOLEIMANI, Gholamreza (Arabic: غلامرضا سلیمانی) (a.k.a. SOLEIMANI, Gholam Reza; a.k.a. SOLEIMANY, Gholamreza; a.k.a. SOLEYMANI, Gholam Reza), Iran; DOB 1964; alt. DOB 1965; POB Farsan, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male (individual) [IRGC] [IRAN-HR] [IRAN-EO13876] (Linked To: BASIJ RESISTANCE FORCE).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13553 for having acted or purported to act for or on behalf of, directly or indirectly, the BASIJ RESISTANCE FORCE.

10. VASEGHI, Leila (Arabic: ليلا واثقی) (a.k.a. VASEGHI, Layla; a.k.a. VASEGHI, Leyla; a.k.a. VASEQI, Layla), Iran; DOB 1973; alt. DOB 1972; POB Sari, Mazandaran Province, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Female (individual) [IRAN-HR].

    Designated pursuant to section 1(a)(ii)(A) of E.O. 13553 for being a person acting on behalf of the Government of Iran (including members of paramilitary organizations) who is responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, the commission of serious human rights abuses against persons in Iran or Iranian citizens or residents, or the family members of the foregoing, on or after June 12, 2009, regardless of whether such abuses occurred in Iran.

11. AZAMI, Seyed Reza Mousavi (Arabic: سید رضا موسوی اعظمی), Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male (individual) [IRAN-HR] (Linked To: SPECIAL UNITS OF IRAN'S LAW ENFORCEMENT FORCES).

    Designated pursuant to section 1(a)(ii)(C) of E.O. 13553 for having acted or purported to act for or on behalf of, directly or indirectly, the SPECIAL UNITS OF IRAN'S LAW ENFORCEMENT FORCES.

12. EBRAHIMI, Mohsen (Arabic: محسن ابراهیمی), Iran; DOB 1961; alt. DOB 1962; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 48107174 (Iran) (individual) [IRAN-HR] (Linked To: IRAN'S COUNTER-TERROR SPECIAL FORCES).

    Designated pursuant to section 1(a)(ii)(C) of E.O. 13553 for having acted or purported to act for or on behalf of, directly or indirectly, IRAN'S COUNTER-TERROR SPECIAL FORCES.

13. KARAMI, Hassan (Arabic: حسن کرمی), Iran; DOB 1960; POB Urmia, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male (individual) [IRAN-HR] (Linked To: SPECIAL UNITS OF IRAN'S LAW ENFORCEMENT FORCES).

    Designated pursuant to section 1(a)(ii)(C) of E.O. 13553 for having acted or purported to act for or on behalf of, directly or indirectly, the SPECIAL UNITS OF IRAN'S LAW ENFORCEMENT FORCES.

Entities:

1. IRAN'S COUNTER-TERROR SPECIAL FORCES (a.k.a. IRANIAN SPECIAL POLICE FORCES; a.k.a. NIROO-YE VIZHE PASDAR-E VELAYAT; a.k.a. SUPREME LEADER'S GUARDIAN SPECIAL FORCES; a.k.a. "NOPO" (Arabic: "نوپو"); a.k.a. "PROVINCIAL SPECIAL FORCES"; a.k.a. "SPECIAL COUNTER-TERRORISM FORCE"), Iran; Additional Sanctions Information - Subject to Secondary

Sanctions; Target Type Government Entity [IRAN-HR] (Linked To: SPECIAL UNITS OF IRAN'S LAW ENFORCEMENT FORCES).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13553 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, the SPECIAL UNITS OF IRAN'S LAW ENFORCEMENT FORCES.

Designated pursuant to section 1(a)(ii)(A) of E.O. 13553 for being a person acting on behalf of the Government of Iran (including members of paramilitary organizations) who is responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, the commission of serious human rights abuses against persons in Iran or Iranian citizens or residents, or the family members of the foregoing, on or after June 12, 2009, regardless of whether such abuses occurred in Iran.

2. SPECIAL UNITS OF IRAN'S LAW ENFORCEMENT FORCES (a.k.a. IRANIAN POLICE SPECIAL UNITS; a.k.a. LEF SPECIAL UNITS; a.k.a. NAJA SPECIAL UNITS; a.k.a. YEGAN-E VIZHE (Arabic: یگان ویژه ناجا); a.k.a. "YEGOP"), Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Target Type Government Entity [IRAN-HR] (Linked To: LAW ENFORCEMENT FORCES OF THE ISLAMIC REPUBLIC OF IRAN).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13553 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, the LAW ENFORCEMENT FORCES OF THE ISLAMIC REPUBLIC OF IRAN.

Designated pursuant to section 1(a)(ii)(A) of E.O. 13553 for being a person acting on behalf of the Government of Iran (including members of paramilitary organizations) who is responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, the commission of serious human rights abuses against persons in Iran or Iranian citizens or residents, or the family members of the foregoing, on or after June 12, 2009, regardless of whether such abuses occurred in Iran.

Dated: December 7, 2021.

Bradley T. Smith,

Deputy Director, Office of Foreign Assets Control.

[FR Doc. 2021–26848 Filed 12–13–21; 8:45 am]

BILLING CODE 4810–AL–C

DEPARTMENT OF VETERANS AFFAIRS

Cost-of-Living Adjustments for Service-Connected Benefits

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice.

SUMMARY: As required by the Veterans' Compensation Cost-of-Living Adjustment Act of 2021, VA is hereby giving notice of adjustments in certain benefit rates. These adjustments affect the compensation program.

DATES: These adjustments became effective on December 1, 2021.

FOR FURTHER INFORMATION CONTACT: Jacqueline Imboden, Policy Staff, Compensation Service, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420, 202–461–9700. This is not a toll-free telephone number.

SUPPLEMENTARY INFORMATION: Section 2 of Public Law 117–45 provides for an increase in each of the rates in sections 1114, 1115(1) and 1162 of title 38, U.S.C. VA is required to increase these benefit rates by the same percentage as increases in the benefit amounts payable under title II of the Social Security Act. The increased rates are required to be published in the **Federal Register**.

The Social Security Administration has announced that there will be a 5.9 percent cost-of-living increase in Social Security benefits for 2022. Therefore, applying the same percentage, the following rates for VA's compensation program became effective on December 1, 2021:

Disability evaluation percent	Monthly rate
Disability Compensation [38 U.S.C. 1114]	
10	$152.64
20	301.74
30	467.39
40	673.28
50	958.44
60	1,214.03
70	1,529.95
80	1,778.43
90	1,998.52
100	3,332.06
(38 U.S.C. 1114(k) through (t)):	
38 U.S.C. 1114(k)	$118.33
38 U.S.C. 1114(l)	4,146.13
38 U.S.C. 1114(m)	4,575.68
38 U.S.C. 1114(n)	5,205.17
38 U.S.C. 1114(o)	5,818.09
38 U.S.C. 1114(p)	5,818.09

Disability evaluation percent	Monthly rate
38 U.S.C. 1114(r)	2,495.52; 3,717.82
38 U.S.C. 1114(s)	3,729.64
38 U.S.C. 1114(t)	3,717.82
Additional Compensation for Dependents [38 U.S.C. 1115(1)]	
38 U.S.C. 1115(1):	
38 U.S.C. 1115(1)(A)	$185.78
38 U.S.C. 1115(1)(B)	321.83; 92.31
38 U.S.C. 1115(1)(C)	124.24; 92.31
38 U.S.C. 1115(1)(D)	149.10
38 U.S.C. 1115(1)(E)	356.16
38 U.S.C. 1115(1)(F)	298.18
Clothing Allowance [38 U.S.C. 1162]	
$891.00 per year	

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on December 7, 2021, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Luvenia Potts,

Regulation Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2021–27043 Filed 12–13–21; 8:45 am]

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